

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT
ELDORET
ELRC CAUSE NO. E025 OF 2022

(Before Hon. Lady Justice Maureen Onyango)

**WARENG NEKOI MULTIPURPOSE
COOPERATIVE SOCIETY.....CLAIMANT**

VERSUS

ISAAC RUTO

RESPONDENT

RULING

1. Judgment in this suit was delivered on 16th January 2025 wherein this court found that the Respondent owed the Claimant Kshs. 3,960,207.
2. The Respondent thereafter filed a Notice of Motion dated 29th January 2025 seeking an order for stay of execution pending the hearing and determination of an appeal to the Court of Appeal.
3. In a ruling delivered on 16th October 2025, the Court allowed the application on condition that the Respondent deposits one half (50%) of the decretal sum in Court within thirty (30) days from the date of the ruling. The Court further ordered that, in

default of compliance, the stay orders would automatically lapse, thereby entitling the Claimant to proceed with execution.

4. The Respondent has now filed the instant application dated 21st November 2025 under Articles 48 and 50(1) of the Constitution of Kenya; Sections 1A, 1B, and 3A of the Civil Procedure Act; Sections 3, 12, and 16 of the Employment and Labour Relations Court Act; Rule 33(1) of the Employment and Labour Relations Court (Procedure) Rules, 2016; Orders 42 Rule 6(2)(b) and 45 of the Civil Procedure Rules and all other enabling provisions of the law. He seeks the following orders:
 - i. Spent
 - ii. That this Honourable Court be pleased to review and vary the conditions imposed in the order for stay of execution pending appeal issued on 16th October 2025, which directed the Applicant to deposit one half ($\frac{1}{2}$) of the decretal sum in Court within thirty (30) days from the date of the ruling
 - iii. That the said condition be substituted with an order allowing the Applicant to deposit as security, the title

deed for property known as PIONEER/NGERIA BLOCK 1 (EATEC) 9875, whose value exceeds the decretal amount

iv. That the costs of this application be in the cause.

5. The application is supported by the grounds set out on its face and the supporting affidavit sworn by the Respondent. He deposes that he is unable to raise half of the decretal sum in cash within the time stipulated by the Court, but is willing and able to provide adequate security by depositing a title deed for property valued at Kshs. 7,000,000/-, which exceeds the decretal amount.
6. The Respondent further contends that under Rule 33(1)(d) of the Employment and Labour Relations Court (Procedure) Rules, the Court may review its orders for “any other sufficient reason,” including circumstances where compliance is impossible or unjust.
7. The Respondent asserts that the proposed security will adequately safeguard the Claimant’s interests while also

ensuring his right to a fair hearing and access to justice as guaranteed under Articles 48 and 50 of the Constitution.

8. The Respondent contends that no prejudice will be suffered by the Claimant if the orders sought are granted, as the proposed security sufficiently covers the entire decretal sum.
9. When the application came up for hearing on 3rd December 2025, Counsel Owino appearing for the Claimant opposed the application orally and maintained that the conditional stay had lapsed on 16th November 2025.
10. The parties agreed to canvass the application by way of written submissions. However, only the Respondent/Applicant filed submissions, dated 26th January 2026 reiterating the averments made in his application.

Determination

11. I have carefully considered the application dated 21st November 2025, the Claimant's response and the submissions on record. The issue for determination is whether the Respondent has established sufficient grounds to warrant

review and variation of the conditional stay orders issued on 16th October 2025.

12. The Court's jurisdiction to review its orders is provided for under Rule 74(1) of the Employment and Labour Relations Court (Procedure) Rules, 2024, which permits review on account of discovery of new and important matter, error apparent on the face of the record or for any other sufficient reason.
13. The Respondent herein seeks review of the condition requiring him to deposit half of the decretal sum in court. He proposes to be allowed to furnish a title deed for property known as PIONEER/NGERIA BLOCK 1 (EATEC) 9875 as security.
14. The Court in its ruling of 16th October 2025 granted a conditional stay of execution requiring the Respondent to deposit 50% of the decretal sum within thirty (30) days, failing which the stay would automatically lapse. It is not disputed that the Respondent did not comply with the said condition within the stipulated time.
15. The Respondent has attributed his non-compliance to his inability to raise the requisite sum within the prescribed period

and urges the Court to find that this constitutes sufficient reason for review of the orders.

16. The purpose of requiring security in an application for stay of execution pending appeal is to guarantee the due performance of the decree should the appeal fail. In exercising its discretion, the Court must strike a balance between the right of the successful litigant to enjoy the fruits of judgment and the right of the Applicant to pursue an appeal without undue hardship.
17. The Respondent has demonstrated willingness to comply with the requirement for security and has proposed to deposit a title deed for property which, according to the valuation report marked IR3 annexed to the application, is valued at Kshs. 7,000,000/-, a sum exceeding the decretal amount.
18. From a perusal of the said valuation report, I am satisfied prima facie, that the proposed security is adequate to safeguard the Claimant's interests. There is no material placed before the Court to suggest that the property is encumbered or otherwise unsuitable as security.

19. I am further persuaded that insisting on a cash deposit in the circumstances of this case would occasion undue hardship to the Respondent and may impede his right of access to justice as guaranteed under Articles 48 and 50 of the Constitution.
20. In the premises, I find that the Respondent has demonstrated sufficient reason within the meaning of Rule 33(1) to warrant review and variation of the conditional stay orders. The interests of justice would be best served by allowing the Respondent to furnish alternative security subject to appropriate safeguards.
21. In the upshot, the application dated 21st November 2025 is hereby allowed on the following terms:
 - i. The conditional stay of execution granted on 16th October 2025 is hereby reviewed and varied,
 - ii. The Respondent shall, within 7 days from the date of this ruling, deposit in Court the original title deed for property known as PIONEER/NGERIA BLOCK 1 (EATEC) 9875 as security.
 - iii. The Respondent shall also deposit in Court the original valuation report already on record together with a

current original official search confirming that the property is free from encumbrances.

- iv. The Respondent shall further within 14 days register a caution in the title of the property indicating that the title has been used as security in this suit and that the same is deposited in court and no dealings in the title or property shall be valid without an order of this court.
- v. In default of compliance with any of the above conditions within the stipulated period, the stay of execution shall automatically lapse
- vi. The parties shall appear before the Deputy Register on a date to be taken at the time of delivering of this ruling to confirm compliance.
- vii. Costs of the application shall be in the appeal.

**DATED, SIGNED AND DELIVERED VIRTUALLY ON
THIS 23RD DAY OF APRIL, 2026**

**MAUREEN ONYANGO
JUDGE**

