



**Mburu & another v Njuguna & another (Civil Appeal
E167 of 2025) [2026] KEHC 5644 (KLR) (30 April 2026) (Ruling)**

Neutral citation: [2026] KEHC 5644 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CIVIL APPEAL E167 OF 2025
BM MUSYOKI, J
APRIL 30, 2026**

BETWEEN

JOHN MBURU 1ST APPELLANT

ROBERT NJOROGE 2ND APPELLANT

AND

SAMUEL NJUGUNA 1ST RESPONDENT

PETER MWANGI MUTHIKE 2ND RESPONDENT

RULING

1. The memorandum of appeal which commenced this matter shows that the appeal is against ruling and orders of Honourable Janet Mwatsama, Chairperson in the Business Premises Rent Tribunal at Nairobi in BPRT case number No. E289 of 2025 delivered on 29th May 2025. Nothing except the title in the memorandum of appeal including the prayers indicate the trial tribunal's case number. Looking at the title only, this court had made an initial decision to strike out the appeal for lack of jurisdiction because appeals from Business Premises Rent Tribunal should go to the Environment and Land Court but upon reading the submissions of the parties and the affidavits, it appears that the appeal is from a decision of the Cooperative Tribunal.
2. The notice of motion dated 23rd June 2025 which is the subject of this ruling has framed the following prayers;
 1. This application is certified as urgent and heard ex-parte at the first instance.
 2. That an order of status quo be and is hereby issued pending inter-parties hearing of this application.
 3. That there be stay of execution pending hearing of this application.



4. That there be stay of ruling issued on 29th May 2025 and all consequential orders pending the hearing and determination of this appeal.
5. That the costs of this application be provided.
3. The application is anchored on the 1st appellant's supporting affidavit dated 23rd June 2025 and further affidavit dated 26th August 2025. The 1st appellant depones that the tribunal granted orders which were not sought and execution of the ruling will result in immediate removal of elected officials of an unnamed Sacco causing irreparable harm and disruption of its operations. It is alleged that the ruling created ambiguity and that stay of execution would prevent unjust and irreversible consequences.
4. In his replying affidavit, the respondent avers that the application is fatally defective, frivolous and abuse of the corrupt process and lacks merits. He adds that the prayers in the application are mischievous and intended to perpetuate an illegality by allowing the appellants to continue clinging on office despite the tribunal finding that their purported election was unlawful. He states further that the appellants have committed acts which have run down the Sacco leading to reduction of the number of vehicles, conductors and drivers and that the Sacco now lacks leaders which situation has stalled its operations. The respondent retorts that granting of the orders will cause irreparable harm and financial ruin and that the appellants have not shown arguable appeal and prima facie case worth meritorious consideration by this court.
5. The application was heard by way of written submissions with the appellants filing their submissions dated 27th August 2025 while the respondent filed his submissions dated 19th August 2025. I have considered the said submissions, the affidavits of the parties and the application alongside the memorandum of appeal.
6. The conditions for grant of an application for stay of execution pending an appeal are well settled. An applicant should demonstrate that they are likely to suffer substantial loss unless the application is not granted; that the application was filed without undue delay and that they are ready to give security for due performance of the decree. For reasons stated in the following two paragraphs, this court finds that the application is not merited and is for dismissal.
7. As stated in the opening of this ruling, the appellant has cited Business Premises Rent Tribunal case number E289 of 2025 despite this matter being seemingly a Cooperative Tribunal one. The parties have not in their affidavits disclosed the Cooperative Tribunal's case number. Worse, the appellant's application has not specified or mentioned the trial tribunal's case number neither has the impugned ruling or pleadings from the tribunal been annexed to any of the affidavits or otherwise exhibited. To add to the confusion, the tribunal's file has not been forwarded to this court. Even if this court had called for the tribunal's file, it would have received one from the Business Premises Rent Tribunal. In these circumstances, this court is unable to ascertain what were the issues before the Cooperative Tribunal.
8. To that extent, I find the application to have been poorly drafted and information accompanying it insufficient and capable of mounting a reasonable case for a stay of execution. Even if the court were to be magnanimous and grant the application as prayed, the orders would be in vain and incapable of being complied with as they would not disclose which case would the order of stay of execution would apply to.
9. Based on the above, this court finds that the application dated 23rd June 2025 is fatally defective and incompetent and the same is hereby dismissed with costs to the respondent.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 30TH DAY OF APRIL 2026.



B.M. MUSYOKI

JUDGE OF THE HIGH COURT

Judgment delivered in presence of Miss Waiyengo holding brief for Mr. Mbiyu Kamau for the respondent and in absence of the respondent,

