

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
COMMERCIAL AND TAX DIVISION
COMM. CASE NO. 016 OF 2022

BETWEEN

**YATO TOOLS (SHANGAI) COMPANY
LIMITED.....PLAINTIFF**

AND

**DANIEL OUTLETS LIMITED.....
DEFENDANT**

RULING

Introduction & Background

1. The Defendant, through the Notice of Motion dated 28th August 2025 seeks to stay the execution of the court's(Musyoki J.,) judgment dated 4th July 2025 where the Defendant was ordered to pay the Plaintiff USD 153,250.23. The application is supported by the grounds on its face and the supporting affidavit of the Defendant's director, Daniel Muriithi Waweru sworn on 29th August 2025. It is opposed by the Plaintiff through the Grounds of Opposition dated 15th September 2025 and the parties have also

supplemented their arguments by filing written submissions which I have considered and I will be making relevant references to the same in my brief analysis and determination below.

Analysis and Determination

2. The singular issue for determination is whether the Appellant has established a valid basis for this court to grant an order for stay of execution. The legal framework for granting a stay of execution pending appeal is well settled under **Order 42 Rule 6** of the ***Civil Procedure Rules***. The Defendant must demonstrate that it will suffer substantial loss if the order is not granted, that the application has been made without unreasonable delay; and that he is willing to provide such security as the court may order for the due performance of the decree.
3. Going through the pleadings and submissions, I find that the application was timely filed and I am also persuaded that the decretal sum of USD 153,250.23 is substantial and if execution proceeds, the Defendant will likely face financial hardship and business disruption. I further note that the Defendant has expressed its readiness and willingness to provide such reasonable security as the Court may direct and it has acknowledged that the

purpose of security is to safeguard the interests of the Plaintiff as the decree-holder while ensuring that the right of appeal is not rendered illusory. As such, I am inclined to allow the application on condition that the Plaintiff deposits the decretal sum of USD 153,250.23 as security and I therefore make the following orders:

- 1) There shall be a stay of execution of the judgment delivered on 4th July 2025, pending the hearing and determination of the Defendant's appeal before the Court of Appeal**
- 2) The stay order granted herein is conditioned upon the Defendant depositing the entire decretal sum of USD 153,250.23 into an interest-earning account in the joint names of the Advocates for the parties herein, or in the alternative, into court, within Thirty (30) days from the date of this ruling.**
- 3) In the event of default of condition 2) above, the order for stay of execution shall stand automatically vacated and the Respondent shall**

**be at liberty to proceed with execution unless
ordered otherwise by the Court of Appeal**

4) Costs of this application shall be in the appeal

DATED SIGNED AND DELIVERED virtually at NAIROBI this

8th DAY of MAY 2026

.....
**J.W.W. MONGARE
JUDGE**

IN THE PRESENCE OF

1. N/A for the Plaintiff
2. Mr. Dadu holding brief for Mr. Gitau for the Defendant
3. Amos- Court Assistant