



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: KARANJA, WARSAME & MUSINGA, J.J.A.)

CIVIL APPLICATION NO. E315 OF 2020

BETWEEN

TRAILINK GROUP LIMITED.....APPLICANT

AND

KENYA LONG DISTANCE TRUCK DRIVERS &

ALLIED WORKERS UNION.....RESPONDENT

*(An application for provision of security and consolidation of Civil Appeals No. 88 of 2018 and 589 of 2019 and Civil Application No. 53 of 2018 and Civil Appeal (Application) No. 589 of 2019 arising from the Judgment of the Employment and Labour Relations Court at Nairobi (Mathews Nderi, J.) delivered on 26th May, 2017 and Ruling of (Maureen Onyango, J.) delivered on 22nd October 2019*

*in*

*ELRC NO. 2181 OF 2014)*

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**RULING OF THE COURT**

In a rather omnibus, inelegantly drawn application dated 12th October, 2020 pronounced to be predicated on **Rules 31** and **103** of the Rules of this Court, the applicant seeks from the Court orders as follows:-

- “1. **THAT** the Honourable Court be pleased to consolidate the hearing of Nairobi Court of Appeal Civil Appeals No. 88 of 2018 and 589 of 2019 between Trailink Group Limited versus Long Distance Truck Drivers & Allied Workers Union.
2. **THAT** the Honourable Court be pleased to consolidated, fast track and hear at the same time the applicant’s application for stay of execution in Civil Application No. Nairobi 53 of 2018 and stay of further proceedings in Civil Appeal (Application) No. 589 of 2019 between Trailink Group Limited versus Kenya Long Distance Truck Drivers & Allied Workers Union.
3. **THAT** the Honourable Court be pleased to order the respondent to provide security for decretal sum of Kshs. 30,161,751/= (Kshs Thirty Million, one hundred and Sixty one Thousand Seven Hundred and Fifty one).
4. **THAT** the Honourable Court be pleased to grant unconditional order of stay of execution and stay of further proceedings in ELRC 2181 of 2014 between Trailink Group Limited versus Kenya Long Distance Truck Drivers & Allied Workers Union in favour of the applicant herein pending the hearing and determination of the appeals before the Honourable Court.
5. **THAT** costs be provided for.”

As can be deciphered from the above, prayers 3 and 4 have nothing to do with **Rule 31** or **103** of the Rules of this Court, and the law invoking this Court’s Jurisdiction to entertain those prayers is not cited. That notwithstanding, however, we observe that there is a prayer for consolidation of the applications mentioned in prayer 2 above. Neither the mentioned applications nor the appeals themselves are before us to enable us determine whether they should be consolidated or not. We are also not certain on whether the prayers for security and stay of execution sought in this application are also similar to those sought in Civil Application No. Nairobi 53 of 2018 and Civil Appeal (Application) No. 589 of 2019.

Our efforts to invite Mr. Wamwayi, learned counsel for the applicant to shed some light on these issues were not successful as he was unable to join the video link where the proceedings were being conducted in spite of several attempts, and the Court was left with no option but to defer the matter for ruling with those issues still unclarified.

We are also concerned that there is no response to the application and we could not confirm whether the same was served on the respondents or not. All these issues have hampered our ability to determine this application on its merit. We accordingly issue orders as follows:-

- 1. That the application be and is hereby adjourned. Same be listed before another bench for hearing after the appeals referred to are taken through case management before the Deputy Registrar of this Court.**
- 2. For purposes of case management and the efficacious and economical/use of judicial time, the records of the appeals referred to as well as the applications be availed to the Deputy Registrar at the case management forum for the necessary directions to be given.**

In sum, our view of the matter is that this application is premature and not ripe for hearing and should only be listed after the appeals/applications are processed through case management. We make no order as to costs of the application.

**DATED AND DELIVERED AT NAIROBI THIS 16TH DAY OF APRIL, 2021.**

**W. KARANJA**

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**JUDGE OF APPEAL**

**M. WARSAME**

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**JUDGE OF APPEAL**

**D. K. MUSINGA**

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**JUDGE OF APPEAL**

*I certify that this is a true copy of the original.*

*Signed*

**DEPUTY REGISTRAR**