



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: NAMBUYE, MUSINGA & SICHALE, J.J.A.)**

**CIVIL APPEAL (APPLICATION) NO. 118 OF 2018**

**BETWEEN**

**SENTRIM KENYA LIMITED.....APPLICANT**

**AND**

**KENYA HOTELS AND**

**ALLIED WORKERS UNION.....1<sup>ST</sup> RESPONDENT**

**KUDHEIHA WORKERS.....2<sup>ND</sup> RESPONDENT**

(Being an application for Injunction and Stay of Execution pending the hearing and determination of an Appeal from the Ruling and Orders of the Employment and Labour Relations Court at Nairobi (Hellen Wasilwa, J.) dated 27th January 2016

*in*

***E.L.R.C Cause No. 2145 of 2014.***

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**RULING OF THE COURT**

1. **UPON** perusing the Notice of Motion dated 18th April 2019 by the applicant seeking an order of injunction to restrain the 1st respondent by itself, agents and/or servants from attaching, proclaiming, selling, leasing or in any way disposing of the equipment and tools of the applicant pending the hearing and determination of an appeal; an order staying execution of the proclamation dated 29th November 2019 pending the hearing and determination of an appeal; stay of execution of the judgment and/or decree of the Court in Nairobi ELRC No. 2145 of 2014 pending the hearing and determination of an appeal, among other prayers; and
2. **UPON** reading the affidavit of **Rajni Shah**, the Managing Director of the applicant sworn on 18th April 2019 in support of the application; and
3. **UPON** noting that there is no replying affidavit filed by the respondent; and
4. **HAVING** considered the principles that guide this Court in determining applications under **rule 5(2)(b)** of this Court's Rules as summarized in ***Stanley Kangethe v Tony Ketter & Others [2013] eKLR***, we appreciate that the applicant has demonstrated that it has an arguable appeal; and that unless the orders sought are granted the applicant's intended appeal may be rendered nugatory.
5. **HAVING** reached that conclusion, we make the following orders:
  - (i) We grant an order of injunction to restrain the 1st respondent, its agents and/or servants from attaching, proclaiming, selling or in any other way interfering with the applicant's equipment, tools and property pending the hearing and determination of an intended appeal.
  - (ii) We grant stay of execution of the judgment and/or decree in Nairobi ELRC No.2145 of 2014 pending the hearing and determination of an intended appeal.

(iii) The applicant shall within 14 days from the date hereof, deposit in this Court a sum of Kshs.786,600 being the decretal amount ordered by this Court to be deposited in a joint interest earning account on 14th February 2018 because the 1st respondent's conduct has frustrated the opening of the joint bank account.

(iv) The costs of this application shall abide the outcome of the intended appeal.

**Dated and delivered at Nairobi this 2<sup>nd</sup> of October, 2020.**

**R. N. NAMBUYE**

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**JUDGE OF APPEAL**

**D. K. MUSINGA**

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**JUDGE OF APPEAL**

**F. SICHALE**

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**JUDGE OF APPEAL**

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

*Signed*

**DEPUTY REGISTRAR**