



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: WARSAME, SICHALE & KANTAI J.J.A)

CIVIL APPLICATION NO. 175 OF 2020

BETWEEN

STELLA WAMBUI MUHORO.....APPLICANT

AND

KENYA MEAT COMMISSION.....RESPONDENT

(Being an Application for injunction from the Judgment of the Employment and Labour Relations Court at Nairobi (Justice Maureen Onyango) dated 12th June, 2020

in

ELRC. No. 3 of 2019)

RULING OF THE COURT

1. By a Notice of Motion dated 26th June, 2020 the applicant, **Stella Wambui Muhoro** has invoked our jurisdiction under **Rule 5(2) (b)** of the Court of Appeal Rules seeking a temporary injunction restraining the respondent, **Kenya Meat Commission**, its servants and agents or any other person acting under its authority from victimizing, selling, threatening, evicting, selling, transferring or in any way interfering with the applicant's possession and enjoyment of **staff house number 32, Kunde Road** located in Lavington Nairobi County (*the suit premises*) following a judgment delivered by the trial court on 12th June 2020 wherein the Court held that the applicant's right to housing ceased with termination of her employment, dismissed the applicant's claim against the respondent and ordered her to vacate the suit premises and pay all outstanding rent from the date of termination.

2. Aggrieved, the applicant has filed the instant application before us. The grounds on the face of the application and reiterated in the Supporting Affidavit of the applicant dated 6th June, 2020 are that: the applicant was declared redundant by the respondent on 12th October, 2014 and an eviction notice issued despite having paid excess rent; that the applicant is apprehensive that the respondent will evict her from the suit premises putting her family in great jeopardy during the Covid pandemic lockdown; that the subject of the application will be rendered nugatory if the orders sought are not granted and that the intended appeal is arguable with high chances of success.

3. We have considered the application and the law. The twin principles that an applicant must satisfy in a **rule 5(2)(b)** application are well known. The applicant must show that the appeal or intended appeal is arguable; and that the appeal, if successful, shall be rendered nugatory unless the orders sought are granted; see ***Stanley Kangethe Kinyanjui vs. Tony Keter & 5 Others [2013] eKLR***.

4. Taking into account the parameters of our discretion in the application before us as well as being careful not to make final determination on the merit of the intended appeal, we are not convinced that the intended appeal is arguable given that the applicant's entitlement to staff housing was subject to her employment which according to the applicant's admission, terminated on 12th October 2014.

5. What's more, we are not satisfied that the applicant has demonstrated that the intended appeal would be rendered nugatory unless the orders sought are granted. We say so because despite being terminated in 2014, it appears that the applicant still continues to be a tenant on the suit premises.

6. The upshot of the foregoing is that the application lacks merit and is hereby dismissed with costs.

Dated and Delivered at Nairobi this 4th day of December, 2020.

M. WARSAME

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JUDGE OF APPEAL

F. SICHALE

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JUDGE OF APPEAL

S.ole KANTAI

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRA