



REPUBLIC OF KENYA



KENYA LAW
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**Barasa v Public Service Board County Government of Trans-Nzoia & 4 others
(Petition 2 of 2022) [2025] KEELRC 1039 (KLR) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1039 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KITALE
PETITION 2 OF 2022
MA ONYANGO, J
MARCH 27, 2025**

BETWEEN

SILAS W BARASA PETITIONER

AND

**PUBLIC SERVICE BOARD COUNTY GOVERNMENT OF TRANS-
NZOIA 1ST RESPONDENT**

**SECRETARY, COUNTY GOVERNMENT OF TRANS-NZOIA 2ND
RESPONDENT**

ALBERT SOITA 3RD RESPONDENT

THE COUNTY GOVERNMENT OF TRANS-NZOIA 4TH RESPONDENT

THE COUNTY ASSEMBLY OF TRANS-NZOIA 5TH RESPONDENT

RULING

1. Vide an application dated 18th January, 2024 the 1st and 3rd Respondents seek the following orders:
 - a. That this application be certified as urgent and service be dispensed with in the first instance.
 - b. That this Honorable court be pleased to grant stay of execution of the Judgment delivered on 30th November 2023 and all the consequential orders therefrom pending the hearing and determination of this application.
 - c. That this Honorable court be pleased to grant stay of execution of judgment delivered on 30th of November 2023 and all the consequential orders therefrom pending the hearing and determination of the intended appeal to the Court of Appeal.
 - d. Such other orders be made as are just and expedient in the interest of justice.



- e. Costs of this application be provided for.
2. The grounds in support of the application are that:
 - i. That the Applicants have lodged a Notice of Appeal against the Judgment delivered in favour of the Plaintiff on 30th November 2023.
 - ii. That the 1st and 3rd Respondents are aggrieved by; the said judgment.
 - iii. That further the said Appeal raises serious, weighty and triable issues of both fact and law and has high chances of success hence ought to be heard on merit.
 - iv. (iv) That it is unfair to condemn the 3rd Respondent to pay costs of the petition personally yet the appointing authority is the one that appointed him to the position of secretary to the 1st Respondent on interim basis to ensure that activities of the 1st Respondent are not paralyzed and the said appointment was not at his own making, neither could the 3rd Respondent refuse appointment by his employer.
 - v. The appointment of the 3rd Respondent was made and accepted in good faith as the activities of the 1st Respondent would have been paralyzed for not being properly constituted.
 - vi. The 1st and 3rd Respondents believe that their appeal stands good chances of success and their appeal may be rendered nugatory if stay of execution of the Judgment is not granted and the judgment be stayed pending Appeal.
 - vii. That unless the orders sought herein are granted, the Plaintiff may proceed and execute the said judgment hence subjecting the 1st and 3rd Respondents to substantial loss and damage and render the said appeal nugatory.
 - viii. In the interest of justice this application ought to be allowed.
 3. The application is not opposed as none of the parties to the suit filed any response to the application. On 9th April, 2024 the court directed that all the applications that were then pending before the court, some of which have already been dealt with, be disposed of by way of written submissions. Timelines were given for compliance. No submissions were filed in respect of the instant application by any of the parties.
 4. The court has noted that although the Application is expressed to have been filed on behalf of the 1st and 3rd Respondent, the prayers and issues raised in the application concern only the 3rd Respondent. The court further notes that at the time of filing the application there appears to have been confusion over the representation of the 1st Respondent which was later cleared and the 1st Respondent is no longer represented by the law firm of Z.K. Yego Law Offices which filed the application.
 5. The court will thus deal with the application as if it was filed on behalf of the 3rd Respondent alone.
 6. The application seeks to stay execution of the whole judgment. However, in the grounds in support of the application and the supporting affidavit of Albert Soita Wanyonyi, the 3rd Respondent herein, the only complaint he has against the judgment herein is that he was ordered to pay costs of the suit.
 7. The court notes that no draft memorandum of appeal was filed with the application to enable the court discern with certainty the grounds of appeal.
 8. As has already been stated above the application is not opposed.



9. The foregoing being the case, the court grants stay of execution of the judgment dated and delivered on 30th November, 2023 only in respect of paragraph 85 thereof which reads: The 3rd respondent will personally bear the costs of the petitioner.
10. The rest of the judgment is not affected by this ruling.
11. The court further notes that at paragraph 83 of the judgment there were directions that the suit be mentioned in 6 months to confirm compliance.
12. The suit is accordingly fixed for mention on a date to be taken at the time of delivery of this ruling for confirmation of compliance with paragraph 83 of the judgment. Notice of the mention shall be served by the court on all parties hereto including the County Attorney, Trans Nzoia County.
13. Orders accordingly.

DATED, DELIVERED AND SIGNED AT ELDORET THIS 27TH DAY OF MARCH, 2025.

M. ONYANGO

JUDGE

