



**Sprint Security Limited v Chacha (Appeal E137 of 2024)
[2025] KEELRC 1799 (KLR) (16 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1799 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
APPEAL E137 OF 2024**

**K OCHARO, J
JUNE 16, 2025**

BETWEEN

SPRINT SECURITY LIMITED APPELLANT

AND

KENNETH OTIENO CHACHA RESPONDENT

RULING

1. By the Notice of Motion application dated 3rd June 2024, the Respondent/ Applicant sought;
 - i. That the Honourable Court be pleased to order the release of the decretal sum of KShs. 607,478, deposited in court by the Appellant together with any accrued interest thereon, to the Respondent's Advocates [Mukongolo and Co. Advocates]
 - ii. That the costs of this application be provided for.
2. The application is premised on the grounds set out on the face of the application and the affidavit in support thereof, sworn by Babra Ayieko, Counsel for the Respondent, on June 3, 2025.
3. The Appellant/ Respondent opposed the application by filing grounds of opposition.

The Application.

4. The Applicant stated that the trial court entered judgment in his favour on 30 May 2024 for KShs. 607,478.
5. Following this Court's order for a stay of execution of the lower Court's decree, the Appellant deposited the decretal sum in court on 17 September 2024 as security for the due performance of the decree in case the Appeal failed.



6. The appeal has been determined. The decision to dismiss the same has not been challenged through an appeal. No stay order has been issued against the implementation of the dismissal order.

The Respondent's Response.

7. The Respondent placed forth the following grounds of opposition;
 - a. The Appellant has since filed the record of appeal and an application dated 13th June 2025 seeking reinstatement of the appeal.
 - b. It is in the interest of justice and fairness that the application for reinstatement is heard and determined before dealing with the Respondent's application.

Analysis and Determination

8. I have carefully considered the Notice of Motion, the grounds upon which it is premised and the affidavit in support thereof, and the grounds of opposition, and return that the sole issue for determination is as follows: -
 - a. Should this Court grant the Applicant the orders sought?
7. Order 42 of the Civil Procedure stipulates why an Applicant for an order of stay pending appeal is required to provide security as a condition for the grant of the order. Providing security ensures the due performance of the decree or order challenged in the appeal in the event the appeal fails. The natural consequence of the appeal's failure is the realisation of the security, in whatever manner, to enable the settlement of the decree.
8. I have carefully considered the circumstances surrounding this appeal, the grounds presented in the application for the security release, the grounds of opposition, and the purpose of providing security in an application for a stay pending appeal. I hold that there is no reason the security cannot be ordered to be released to the Respondent, given that the appeal has been dismissed.
9. Consequently, the Respondent's Application, dated 3rd June 2025, is hereby allowed in terms of prayer 1 thereof.
10. Orders accordingly.

READ, SIGNED AND DELIVERED VIRTUALLY IN MOMBASA THIS 16TH JUNE, 2025.

OCHARO KEBIRA

JUDGE

