



**Bahari Muslim Academy v Njeri (Miscellaneous Application
E033 of 2025) [2025] KEELRC 1689 (KLR) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1689 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
MISCELLANEOUS APPLICATION E033 OF 2025**

K OCHARO, J

JUNE 5, 2025

BETWEEN

BAHARI MUSLIM ACADEMY APPLICANT

AND

RUTH NJERI RESPONDENT

RULING

1. By the Notice of Motion application dated 3rd March 2025, the Applicant sought;
 - I. That the application be certified as urgent and be heard ex parte in the first place.
 - II. THAT this Court be pleased to grant a temporary stay of execution of the decree emanating from the Judgment delivered on 14th March 2024 by Hon. Lucy Khaendi Sindani [RM] in Mombasa MCELRC No. E 168 of 2023 pending the hearing and determination of this application.
 - III. THAT this Honourable Court be pleased to grant leave to the Applicant to file an appeal out of time against the Ruling of Hon. Khaendi Sindani, Resident Magistrate, delivered on the 14th March 2024 in MCELRC E168 OF 2023, Mombasa.
 - IV. THAT there be a stay of execution of the decree emanating from the Ruling of Hon. Lucy Khaendi Sindani [Rm] in Mombasa MCELRC NO. E168 of 2023 pending the hearing and determination of the application and intended Appeal.
 - V. 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 Omar Mohammed Said on 3rd March 2025.
3. The Respondent opposed the application via her replying affidavit sworn on 23rd April 2025.



Determination.

4. Prayers 1 and 2 of the application are spent. Therefore, outstanding for determination by this Court are prayers 3, 4, and 5 of the application. I have carefully considered what the two principal grounds [3 and 4] seek, and I straight away conclude that this is an application for failure. The prayers cannot be granted.
5. The two prayers relate to a ruling delivered by the learned trial magistrate on 14 March 2024 and the decree arising therefrom. The learned trial magistrate did not deliver any ruling on that date that could be subject to appeal, justifying an order for leave to appeal out of time or for a stay of execution pending appeal.
6. It has not escaped my mind that in her ruling dated 20th day of June 2024, Justice Mbaru noted;

“The appellant has not done a tidy job in the instant application. There was no attention and keenness to detail. The application to stay judgment in CMCC NO. 671 of 2022 and not MCELRC No. E168 of 2022 was noted by the respondent in the Replying Affidavit, but the Appellant did not take the cue to address it.”

Apparently, no lessons were learnt from this statement.
7. Drafting pleadings, litigation, or legal documents requires the presence of mind, keenness, and a comprehensive understanding of the subject matter and material facts. I have no doubt that the current application was prepared without sufficient keenness and due consideration for the subject matter involved.
8. Since the orders sought are not grantable in the abovementioned circumstances, I find the Applicant’s application dated 3rd March 2025 incompetent and lacking merit. It is dismissed with costs.
9. This file is marked closed.
10. Orders accordingly.

READ, SIGNED AND DELIVERED VIRTUALLY IN MOMBASA THIS 5TH JUNE, 2025.

OCHARO KEBIRA

JUDGE

