



**Mang Hotel & another v Mose & 13 others (Cause 267 of 2014)  
[2023] KEELRC 1312 (KLR) (26 May 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1312 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 267 OF 2014  
NJ ABUODHA, J  
MAY 26, 2023**

**BETWEEN**

**MANG HOTEL ..... 1<sup>ST</sup> APPLICANT**

**TIMOTHY KINUTHIA ..... 2<sup>ND</sup> APPLICANT**

**AND**

**PETER KIMEU MOSE ..... 1<sup>ST</sup> RESPONDENT**

**JOSEPH NTHIWA NZIOKI ..... 2<sup>ND</sup> RESPONDENT**

**ANTHONY KARIUKI GICHOHI ..... 3<sup>RD</sup> RESPONDENT**

**SYLVESTER KYALO MUTIO ..... 4<sup>TH</sup> RESPONDENT**

**ANNE WAMBUI WANYOKIE ..... 5<sup>TH</sup> RESPONDENT**

**CYRUS MWAURA MBUGUA ..... 6<sup>TH</sup> RESPONDENT**

**LILIAN WAMBUI GACHOKA ..... 7<sup>TH</sup> RESPONDENT**

**WILLIAM NTHIANI KITHUKA ..... 8<sup>TH</sup> RESPONDENT**

**STANLEY GITHINJI MWANGI ..... 9<sup>TH</sup> RESPONDENT**

**JAMES ANGULU NDAKALA ..... 10<sup>TH</sup> RESPONDENT**

**MARTIN NZIOKA KITUMBI ..... 11<sup>TH</sup> RESPONDENT**

**JUDY MWERU GATHOGO ..... 12<sup>TH</sup> RESPONDENT**

**FRANCIS MUNYEBI NDONYE ..... 13<sup>TH</sup> RESPONDENT**

**JOSEPH KARIUKI RUGIRI ..... 14<sup>TH</sup> RESPONDENT**



## RULING

1. The applicant sought a review of this Court's ruling delivered on 9th February, 2023 ( Mbaru J) in which the learned Judge ordered that the decretal sum be deposited in a joint interest earning account held by both parties within the next 30 days.
2. The applicants pray that the order of the learned Judge be substituted with an order directing that the applicant do deposit a renewable Banker's Guarantee of the decretal sum being Kshs.2,417,422.15 in the name of M/S Lucy Njiru & Company Advocates pending the hearing and determination of Civil Appeal No. E880 of 2022.
3. According to the applicant, their application dated 22<sup>nd</sup> November, 2022 did not seek such an order therefore the learned Judge must have made an error granting a prayer the applicants never sought. The applicant further stated that the application before the learned Judge was made by the applicants seeking to provide security for the decretal sum pending appeal or in the alternative they be allowed to deposit a Banker's Guarantee for the amount. It was not an application for stay of execution in which the Court could impose conditions.
4. The applicant also stated that the Appeal had undergone case management directing the parties to file their respective submissions in 30 days.
5. The Court has perused the application dated 22<sup>nd</sup> November, 2022 and is persuaded that it is indeed correct that the applicant never sought the orders which the Court ultimately granted. This was obviously an error on the face of the record which the Court has power under its review jurisdiction to correct. The application dated 13<sup>th</sup> February, 2023 is therefore hereby allowed to the extent that the order of the learned Judge issued on 9<sup>th</sup> February, 2023 be and is hereby substituted with an order directing that the applicant do deposit a renewable Banker's Guarantee of the decretal sum being Kshs.2,417,422.15 in the name of M/S Lucy Njiru & Company Advocates pending the hearing and determination of Civil Appeal No. E880 of 2022.
6. Costs to abide the outcome of the Appeal.
7. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI ON THIS 26<sup>TH</sup> DAY OF MAY 2023**

**ABUODHA J. N.**

**JUDGE**

In the presence of:-

M/s Njiru for the Claimant

Timothy for the Respondent

