



East Africa Portland Cement & Anor v Kipchumba & 228 others; Kenya Chemical and Allied Union (Respondent) (Cause 2119 of 2014) [2023] KEELRC 1655 (KLR) (11 July 2023) (Ruling)

Neutral citation: [2023] KEELRC 1655 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 2119 OF 2014
AN MWAURE, J
JULY 11, 2023**

BETWEEN

EAST AFRICA PORTLAND CEMENT & ANOR APPLICANT

AND

JULIET KIPCHUMBA & 228 OTHERS CLAIMANT

AND

KENYA CHEMICAL AND ALLIED UNION RESPONDENT

RULING

1. The court was to rule on two issue as per the oral application by the judgement debtor on July 11, 2023. He prayed for stay of execution of the order confirming of garnishee nisi to garnishee absolute. The court as earlier observed will not be acting judicially to grant a stay of execution considering the age of this case and the journey the grievants have taken since judgment was passed in their favour. With due respect it is fair and human to leave the claimants/grievants escalate this matter to the next level. Hence that prayer is not granted and grievants are still at liberty to execute.
2. The prayer for stay of attachment which the respondent also prays for stay of execution reads as follows:

That this honourable court do issue a warrant of attachment by way of a prohibitory orders prohibiting the respondent/judgment debtor either by itself or its agents from transferring or charging L.R No. 8784/144, LR no 8784/145 LR NO 8784/653 L.R NO 7815/1, LR NO 10424/5, LR NO 10424/6, LR NO 10424/7, LR NO 10424/8, LR NO 10424/9, LR NO 10424/10, LR NO 10424/11 LR NO 10424/12, LR NO 10424/13, LR NO 10424/14, LR NO 10424/15, LR NO 10424/16, LR NO 10424/17, LR NO 10424/18, LR NO 10424/19, LR NO 10424/20, LR NO 10424/21, LR NO 10424/22, LR NO



10424/23, LR NO 10424/24, and this order be registered by the Chief Land Registrar on the relevant land registrar pending further orders.

This order is also not to be granted. The other prayer for execution being prayer 8 is also allowed.

3. The 1st to fifth garnishees are ordered to avail current statements of the funds they are holding in their respective organisations on behalf of East Africa Portland Cement and so the garnishee absolute orders will be only to the extent of the funds that each of the garnishees are holding in their respective institutions.
4. To conclude on that 27/7/2023 case will be mentioned on 24/7/2023 for the Garnishees to provide the statements.

Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 11TH DAY OF JULY, 2023.

ANNA NGIBUINI MWAURE

JUDGE

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of *the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of **Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

