



REPUBLIC OF KENYA



KENYA LAW
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**Akumu & another v Independent Electoral & Boundaries Commission (IEBC)
(Cause 1709 of 2016) [2023] KEELRC 2065 (KLR) (18 August 2023) (Ruling)**

Neutral citation: [2023] KEELRC 2065 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1709 OF 2016
J RIKA, J
AUGUST 18, 2023**

BETWEEN

LYDIA ONDISO AKUMU 1ST CLAIMANT

TONY OPICHO WANYAMA 2ND CLAIMANT

AND

**INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION
(IEBC) RESPONDENT**

RULING

1. Judgment was delivered in favour of the Claimants, on November 30, 2022.
2. The Respondent filed a Notice of Appeal dated December 13, 2022, and requested for certified proceedings on the same date.
3. The Party-Party Bill of Costs was taxed by the Deputy- Registrar on August 3, 2023.
4. The Respondent filed an Application dated March 22, 2023, seeking stay of execution pending Appeal.
5. It is supported by the Affidavit of Chrispine Owiye, Legal Officer of the Respondent.
6. Chrispine states that: The Respondent was dissatisfied with the Judgment; lodged a Notice of Appeal; applied for certified proceedings; taxation would pave way for execution; if stay is not granted, the Respondent would suffer irreparable loss; and, the Intended Appeal is arguable with reasonable prospects of success.
7. Chrispine also states that, the Respondent has been seeking to have the decretal sum settled, pending taxation of costs.



8. The Court granted interim order of stay of execution on July 28, 2023. Parties had been directed to file and exchange their written submissions, on April 20, 2023. They confirmed their compliance, on July 28, 2023.

The Court Finds:

9. There is no draft Memorandum of Appeal exhibited by the Respondent, and the Court has no means of assessing the ground advanced by the Respondent, that the Intended Appeal is arguable, with reasonable prospects of success.
10. Chrispine states that the Respondent was seeking to settle the decree pending taxation. Taxation has taken place. The Respondent seems to have made the Application, seeking time to settle the decree, rather than in a genuine pursuit of an Appeal, at the Court of Appeal. A Party intending to propose to the Court a mode of settlement of its Judgment / Decree, ought not to come to Court, under the guise of an Intended Appeal. Ideally such a Party ought to engage its counterpart, on the mode of payment.
11. The Application is declined.
12. Interim order for stay of execution of Judgment/ Decree is vacated.

It Is Ordered:-

- a. The Application dated March 22, 2023 filed by the Respondent is declined.
- b. Interim order for stay of execution of Judgment/ Decree is vacated.
- c. Costs to the Claimants.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY VIA E-MAIL, AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS 2020, THIS 18TH DAY OF AUGUST 2023.

JAMES RIKA

JUDGE

