



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

APPEAL NO. E072 OF 2021

SUNSET BOULEVARD MANAGEMENT

COMPANY PHASE 1 LIMITED.....APPELLANT

VERSUS

SAMSON ODWORY WANJALA.....1ST RESPONDENT

VINCENT OTWANISTIMA.....2ND RESPONDENT

PETER ODARI OLUMULA.....3RD RESPONDENT

JANE ACHIENG OMONDI.....4TH RESPONDENT

ELIZABETH CHELA.....5TH RESPONDENT

PAMELA BOKE MOROA.....6TH RESPONDENT

MORINE MUTHEU MULINGE.....7TH RESPONDENT

MACKLINE SOPHIE MATIFARI.....8TH RESPONDENT

ALEX CHANGIRWA GALEGWA.....9TH RESPONDENT

RULING

1. Granted the Respondents in the lower Court being the Appellant herein has sought by Motion of 14th July 2021 for a stay of the judgment of Hon. D.O. Mbeja dated 30th June 2021, the judgment as seen by the Court did not specify the sums due on the Claim and at the penultimate paragraph of the decision indicated the Claimants as being successful in the redundancy claim and were entitled to payment in lieu of notice, compensation for unfair and unlawful termination and the judgment was entered in favour of the 9 Claimants as paged in their Claim.

2. The Appellant who was the Respondent in the Court below has raised 8 grounds on appeal and the main gravamen of the Motion by the Appellant/Applicant is the non-quantification of the sums due. It is asserted by Miss Mwikali that the Appellant does not have the benefit of the actual dues ordered by the Court and as such the judgment ought to be stayed pending Appeal.

3. Mr. Awino for the Respondents asserts the figures that were due are ascertained and that the Appellant is aware. He argues that the Respondents who are the successful Claimants in the Court below were not able to understand why the Appellant asserts that it is unclear what sums are due. He urges the dismissal of the Motion by the Appellant with costs but if the Court is inclined to grant it, to do so with condition that the Appellant deposits the entire decretal sum in an interest earning account.

4. The Court having considered the final arguments advanced as well as perusing the record before it, it is clear the Motion by the Appellant is merited in at least one regard. The Learned Magistrate did not quantify the sums due and as such the Appellant may be at a loss as the sums due on account of the Claim. Granted that this is not the appeal proper, I will say no more. The foregoing is clear that the Motion by the Appellant succeeds as I grant stay of the execution of the Judgment of the Court below and order the fast tracking of this Appeal. Stay granted pending hearing and determination of the Appeal herein.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 22ND DAY OF JULY 2021

NZIOKI wa MAKAU

JUDGE