



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT KISUMU**

**INDUSTRIAL CAUSE NO. 358 OF 2014**

**(Before Hon. Justice Mathews N. Nduma)**

**ELROY MADEGWA..... CLAIMANT**

**VERSUS**

**GLOBAL TRUCKS LIMITED.....RESPONDENT**

**RULING**

1. Application dated 3<sup>rd</sup> May 2019 sought stay of execution of the decree herein and that the applicant be allowed to liquidate the decretal amount by paying Kshs. 30,000 within 2 months from the date of the Application and pay the balance within a period of 12 months in installments of Kshs. 15,000 per month.
2. The application is opposed vide a replying affidavit dated 10<sup>th</sup> June 2019 and filed on 13<sup>th</sup> June 2019 in which the claimant/Respondent states that there is no good reason advanced by the respondent not to liquidate the decretal amount at once since the respondent is a well-established company operating in East Africa and can afford to liquidate the decretal sum at once.
3. The court has considered the depositions and submissions by the parties and is not satisfied that the respondent/applicant is not in a position to liquidate the decretal sum at once. Indeed, there has been considerable passage of time from the date the application was filed to date and the respondent ought to have liquidated the decretal sum by now.
4. The application lacks merit and is dismissed with costs.

**Judgment Dated, Signed and delivered at Nairobi this 30<sup>th</sup> day of July, 2020**

**Mathews N. Nduma**

**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 15<sup>th</sup> March 2020, this ruling has been delivered to the parties online with their consent. 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 18 of the Civil 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.

**Mathews N. Nduma**

**Judge**

**Appearances**

Mr. Maube for Respondent/Applicant

Mr. Wamalwa for Claimant/Respondent

Chrispo: Court Clerk