

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

E. & L. R. CASE NO. 19 OF 2014

(Before Hon. Justice Mathews N. Nduma)

FRED J. OWUOR (alias) FRED O.R.J. OWUOR.....CLAIMANT

VERSUS

TEC INSTITUTE OF MANAGEMENT LIMITED.....RESPONDENT

RULING

1. Application dated 6th August 2018 and filed on 6th August 2018 seeks stay of execution of the decree and judgment of the court delivered by Justice Maureen Onyango on 4th May 2017 pending the hearing and determination of Appeal.
2. The application is based on grounds set out on the face of the application to wit that proclamation of the respondent's goods/tools of trade has already taken place on 31st July 2018 and the items are to be removed and sold in satisfaction of the decree on 7th August 2018.
3. That the respondent's business risk closure to the detriment of students if proclamation is not lifted.
4. The application is opposed via grounds filed on 3rd July 2018. That the application has been brought after inordinate delay with an intent to defeat ends of justice.
5. That the applicant has not offered security for the performance of the decree nor has it demonstrated that it has an arguable appeal that is likely to be rendered nugatory.
6. I have considered the competing arguments in this matter. Having regard to the requirements for grant of stay of execution pending Appeal set out in Masisi Mwita vs Damaris Wanjiku Njeri (2016) eKLR; and Butt vs Rent Restriction Tribunal (1982) KLR 417.

The court makes the following orders:-

7. Stay of execution is granted as prayed in the application provided the respondent deposits entire decretal sum in an interest earning account in the joint names of counsel for the claimant and counsel for the respondent within 14 days of this Ruling failing which the order for stay will lapse and execution to issue.

Ruling Dated, Signed and delivered this 21st day of March, 2019

Mathews N. Nduma

Judge

Appearances

Mr. Angu for Claimant/Respondent

M/S Momanyi for Respondent/Applicant

Chrispo – Court Clerk