



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF
KENYA AT NAIROBI

CAUSE NUMBER 1957 OF 2012

ERIC MUTHAMA NDUU.....CLAIMANT

VERSUS

JAYVEER ENTERPRISES LIMITED.....RESPONDENT

RULING

1. By an application dated 4th February, 2019 the respondent/applicant sought to stay of execution of the orders of this court's judgement delivered on 10th January, 2017 pending appeal already lodged. The applicant argued that if the stay was not granted the respondent stands to suffer irreparable loss and the appeal would be rendered nugatory.
2. Counsel for the applicant further argued that the application was brought without unreasonable delay and further that the respondent was prepared to deposit the decretal sum in a joint interest account in the name of advocates counsel further argued that the respondent would not be able to recover the decretal sum should the appeal be successful.
3. Mr Musyoki for the claimant argued that the applicant had not met the requirements of order 42 rule 6 of the Civil Procedure Rules on stay of execution. According to counsel the applicant had benefitted from the services of the claimant and further that the applicant had alleged that they were unable to pay the entire decretal sum. Counsel further complained that the application was made at the execution stage.
4. This court had entertained a similar application seeking stay of execution of the judgement of the court and setting aside the said judgement and that the suit be heard de novo. By its ruling delivered on 7th December 2018, the court refused that application.
5. The present application is therefore an abuse of the court process hence the court will not delve into its merit or otherwise.
6. The same is hereby dismissed with costs.
7. It is so ordered.

Dated at Nairobi this 17th day of May 2019

Abuodha J. N.

Judge

Delivered this 17th day of May 2019

Abuodha J. N.

Judge

In the presence of:-

.....for the Claimant and

.....for the Respondent.