



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 2156 OF 2014

VERONICA OTERICLAIMANT

v

BARCLAYS BANK OF KENYA LTD.....RESPONDENT

RULING NO. 2

1. In a judgment delivered on 13 July 2018 the Court found and held that the termination of the Claimant's employment was unfair. The Court awarded the Claimant Kshs 1,188,594 together with costs and interest.
2. The Respondent was dissatisfied and preferred an Appeal on 17 July 2018.
3. On 3 June 2019, the Respondent filed an application before this Court seeking stay of execution pending the hearing and determination of the Appeal. The Court granted a conditional stay of execution on terms that the Respondent was to deposit the decretal sum into Court pending *inter partes* hearing of the application.
4. In a Ruling delivered on 15 July 2019, the Court declined to grant an order staying execution pending the hearing and determination of the Appeal because the Respondent had not sufficiently explained the 10 month delay in moving Court for stay of execution.
5. The Claimant then moved the Court on 19 September 2019 seeking for an order to release of the monies deposited into Court. The Court allowed the application because the Respondent was not in Court when the application was urged.
6. The Respondent swiftly moved on 20 September 2019 to have the release order vacated/set aside. It is this application which is the subject of this Ruling.
7. The Court has considered the material and submissions placed before it.
8. The Court agrees with the Claimant that once it declined to allow the Respondent's application for stay of execution pending the hearing and determination of the Appeal, it became *functus officio*. The Court having rendered itself on the aforesaid application cannot proceed to stop the Claimant from realising the fruits of Judgment.
9. It is the view of this Court therefore that any order to stop the release of monies deposited in Court as security is only within the province of the Court of Appeal.
10. The Respondent's application dated 20 September 2019 is dismissed with costs.

Delivered, dated and signed in Nairobi on this 7th day of October 2019.

Radido Stephen

Judge

Appearances

For Claimant Mr Amutallah instructed by Amutallah Robert & Co. Advocates

For Respondent Ms. Kanyiri, Federation of Kenya Employers

