



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1188 OF 2015

(Before Hon. Justice Hellen S. Wasilwa on 27th April, 2018)

TITUS WAMALWA KHAEMBA.....CLAIMANT

-VERSUS-

TRANSPORT WORKERS UNION.....1ST RESPONDENT

DAB MIHADI (GENERAL SECRETARY).....2ND RESPONDENT

AND

BARCLAYS BANK OF KENYA LIMITED.....GARNISHEE

RULING

1. The Application before Court is dated 29th November 2017. The Application was filed under Certificate of Urgency and brought through a Notice of Motion dated even date.
2. The Application seeks orders that there be stay of execution of the Court orders and ruling dated 24/11/2017 and that the 1st Respondent be allowed to pay the final agreed amounts at monthly instalments that will not cripple the Respondent's operations.
3. The Application is also based on the following grounds:-
 - i. *That, this Application is a matter of utmost urgency and requires immediate intervention by the Honourable Court.*
 - ii. *That, the amounts in question have been partly paid and received by the Claimant and thereby what is being claimed and ORDERED is not accurate.*
 - iii. *That, the Claimant is in the process of executing an Order dated 24/11/2017 which has an error that needs to be immediately rectified by this Honourable Court before such execution takes place.*
 - iv. *That, the Honourable Court has jurisdiction to stay the execution of the ruling and Orders dated 24/11/2017 pending the hearing and determination of this Application.*
 - v. *That, there was non-disclosure on the part of the Claimant that led to the issuance of the Orders.*
 - vi. *That, the Garnishee application was never heard and canvassed in Court as reflected in the Ruling.*
4. The Applicant also seek a review of the Court's Judgement/Ruling on the ground that there are errors in Garnishee Ruling as the name of the Bank Account, the Account No. and amounts involved are in question.
5. The Applicant contend that Kshs.349,648/= have already been paid to the Claimant and the balance is therefore Kshs. 552,855/= less statutory deductions.
6. The Claimant/Respondent opposed this application. They aver that the Hon. J. Nderi already reviewed his Judgement vide a ruling

delivered on 14/10/2016 where parties were directed to file their computation. The parties filed their submissions and vide a ruling dated 2/3/2017, the Hon. Judge computed the prayers to 902,500/=.

7. The Respondent also aver that the application before Court is frivolous and unclear and that the Applicant has not demonstrated what error there is on record to warrant review or error being pointed out on the Bank Account. The Claimant avers that the error only concerns the Bank Code which is 097 instead of 094 for Queens Way Branch which the Claimant submit that can be amended.

8. The Claimant denies being paid Kshs.349,645/= but avers that since the Applicant admits the sum of Kshs.552,855/= they should be allowed to execute.

9. I have examined all averments on record. I have also considered the submissions filed by the Applicant herein where the Applicant admits their willingness to pay the Claimant Kshs.902,500/= less statutory deductions. In view of this fact, I allow the application and order that the Applicant pays the Claimant Kshs.552,855/= admitted less statutory deductions.

10. The amounts be paid in 4 equal instalments with effect from end of May 2018 until payment in full. In default execution to issue.

Dated and delivered in open Court this 27th day of April, 2018.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Makau for Union – Present

No appearance for other Parties