



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF
KENYA AT NAIROBI
CAUSE 1256 OF 2013

PAUL LEBOO.....CLAIMANT

VERSUS

DAVID MUTUTO MUMO1ST RESPONDENT

GRITS INDUSTRIES LIMITED.....2ND RESPONDENT

RULING

1. The applicant by Motion dated 27th July, 2016 seeks an order to liquidate the decretal sum by instalments Kshs 100,000/= per month until payment in full.
2. The 1st Respondent in his affidavit in support of the application states that currently the company is unable to settle the whole decretal amount at once due to harsh economic times and that the 2nd Respondent company is still young trying to create a market within Kitui town and its environs. Mr Mumo further states that the 2nd Respondent's monthly turn over does not exceed Kshs 300,000/= yet it has salaries and other bills to pay.
3. The claimant opposed the application stating that the judgement debtor's proposal to settle the decretal sum in instalments of Kshs 100,000/= per month is scandalous and that the affidavit in support of the application does not provide the court with sufficient proof nor evidence to enable the court exercise its discretion in favour of the respondent.
4. Payment of the decretal sum by instalment is an order the court may in appropriate circumstances make. Before making the order the court will have to consider the instalment offered vis-a-vis the decretal sum. This will help the court assess and determine the honesty and commitment on the part of applicant. An instalment which is inordinately low will not be accepted because it will have the effect of reducing the economic sense of the decretal sum to the decree holder.
5. The award of this court is Kshs 996,369/= therefore settling the same at the rate of Kshs 100,000/= per month would require about ten months. This is likely to drag the decree holder too long in enjoying the fruits of his judgement.
6. In the circumstance, taking the interest of both the claimant as the decree holder and the respondent as a judgement debtor, the court will allow the application but order that the judgement debtor makes a lumpsum of Kshs 200,000/= as the first instalment within fifteen days of this order and thereafter by a monthly instalment of Kshs 100,000/= with effect from end April, 2017 and subsequent instalments at the

end of each succeeding month until payment in full.

7. In default of any installment execution to proceed.

8. There will be no order on costs.

9. It is so ordered.

Dated at Nairobi this 24th day of March 2017

Abuodha J. N.

Judge

Delivered this 24th of March 2017

Abuodha J. N.

Judge

In the presence of:-

.....for the Claimant

.....for the Respondent.

Abuodha J. N.

Judge