



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**  
**AT NAIROBI**  
**CAUSE NO. 1822 OF 2013**  
**EVERLYN MATESI LUSASI.....CLAIMANT**  
**VERSUS**  
**METAL CROWNS LIMITED.....RESPONDENT**

**Mrs Guserwa for claimant**

**Mrs Bukatch for respondent**

**RULING**

1. The notice of motion dated 2<sup>nd</sup> February 2017 seeks *inter alia*;
  - i. Stay of execution of the Judgment and/or decree of the court delivered on 20<sup>th</sup> December 2016 in favour of the claimant in the sum of Kshs. 153,900.
  - ii. The court do extend the time within which to file the notice of appeal.
2. The application is supported by the grounds set out on the face of the application as follows;
3. That the previous advocates on record neglected to file notice of appeal timeously. That the intended appeal has high chances of success.
4. That the application has been brought without inordinate delay.
5. That the applicant is ready and willing to deposit the decretal sum of Kshs. 153,900 in court as security.
6. That no prejudice would be suffered by the claimant and it is in the interest of justice that the applicant be allowed to file an appeal.
7. The application is opposed by the replying affidavit of the claimant sworn on 2<sup>nd</sup> February 2017
8. The claimant deposes that the application lacks merit since there is neither a notice of appeal filed nor a memorandum of appeal itself since the Judgment was delivered.
9. That no good cause has been shown as to why the appeal was not noted.

## **Determination**

10. This application was filed on 3<sup>rd</sup> February 2017 less than two months from the date the Judgment was delivered.

11. The court is not averse to extend time within which the applicant may file a notice of appeal following the decision of Rika J. in ELRC **Cause No. 805 of 2012, Leland I. Salono Vs. inter-continental hotel [2014] eKLR** in which the Judge invoked inherent powers of the court to grant any other relief as provided under section 12(3) (viii) of the Employment and Labour Relations Court Act, Cap. 234 B as follows;

*“(3) In exercise of its jurisdiction under the Act, the court shall have power to make any of the following orders;-*

*(iii) any other appropriate relief as the court may deem fit to grant,”*

12. The court has no basis however to grant stay of execution of the Judgment/decreed of the judgment of the court there being no notice of appeal filed yet.

**13. In the final analysis, leave is granted to the applicant to file a notice of appeal within 14 days from todate.**

**Dated, signed and delivered at Nairobi this 25<sup>th</sup> day of August, 2017**

**MATHEWS NDERI NDUMA**

**PRINCIPAL JUDGE**