



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU**  
**MISC.APPLICATION NO. 21 OF 2017**

**RUTH WAMBUI MWANGI**

**AGNES NYAMBURA WANGAI (suing as**

**the legal representatives of the estate of**

**Joseph Wangai Muraya**

**APPLICANTS**

v

**ALFARAH WHOLESALERS LIMITED**

**RESPONDENT**

**RULING NO. 3**

1. For determination is a motion dated 4 December 2017 by the Respondent seeking

a). ...

b). ...

c). There be a stay of execution of the orders of this court dated and issued on 31<sup>st</sup> July 2017 and 1<sup>st</sup> December 2017 plus all consequential processes and proceedings pending hearing and determination of an intended appeal to the Court of Appeal.

d). There be further stay of execution of proceedings in this matter geared towards recovery of the amounts awarded in this matter pending hearing and determination of the Intended Appeal to the Court of Appeal.

e). The sum of Kshs 900,000/- deposited in court pursuant to the orders of this court be availed as security and the same be placed in a fixed deposit account at KCB Bank Ltd Nakuru Branch in the Names of the Advocates for the Parties herein as security pending the hearing and determination of the Intended Appeal.

f). Cost of this application be in the Intended Appeal.

2. When the application was placed before Court on 4 December 2017, the Court directed that it be served upon the applicants for hearing today.

3. The applicants filed a replying affidavit in opposition to the motion on 6 December 2017 and arguments were taken today.

4. The Court has given due consideration to the application, the replying affidavit and oral submissions tendered in Court and come to the conclusion that the stay in terms of order d) be granted on condition that the sum of Kshs 700,000/- out of the Kshs 900,000/- deposited into Court be released to the applicants.

5. The order for release is made on the consideration that the compensation as was assessed by the Director of Occupational Health and Safety is based on a no blame liability and the further consideration that the Respondents have not denied that the deceased on whose behalf the initial proceedings were brought was its employee who died after an accident in the course of employment.

6. Costs of the application in the Cause.

**Delivered, dated and signed in Nakuru on this 7<sup>th</sup> day of December 2017.**

**Radido Stephen**

**Judge**

**Appearances**

For applicants                      Mr. Murimi instructed by Murimi, Ndumia, Mbago & Muchela Advocates

For Respondent                      Mr. Odero instructed by Okong'o Wandago & Co. Advocates

Court Assistant                      Nixon