



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**

**CAUSE NO 659 OF 2014**

**VIOLET VUGUTSA ODENYI.....CLAIMANT**

**VS**

**MANOJ CHUDASAMA.....RESPONDENT**

**RULING**

1. On 15th April 2016 I delivered an award in the sum of Kshs. 329,627 in favour of the Claimant. The Respondent then moved the Court by Notice of Motion under certificate of urgency dated 25th April 2016. The application which is supported by the Respondent's affidavit seeks the following orders:

- a. That a stay of execution be granted pending review of the award;
- b. That a stay of execution be granted pending the hearing of an intended appeal.

2. In the supporting affidavit sworn by the Respondent on 26th April 2016 he depones that he intends to appeal the award of the Court. He also intends to seek a review of the said award.

3. In a replying affidavit sworn by the Claimant on 13th May 2016, she states that the Respondent's application is misconceived and vexatious. She adds that no good reasons have been advanced for granting stay of execution of the award entered in her favour.

4. By nature and definition a stay of execution is an interim measure aimed at allowing an aggrieved party the opportunity to pursue a substantive cause of action through either an application for review before the trial court or an appeal to a higher court.

5. A party seeking stay must therefore lay before the Court valid grounds for such an order. In his application the Respondent is not clear what course of action he intends to take. In the same breath he states that he wishes to pursue a review and an appeal. He even states that he would like time to consult his Advocate.

6. It seems to me that all the Respondent wants is a stay of execution without clarity on the next course of action. At any rate, I have not seen a notice of appeal and the grounds set out in the memorandum for review do not meet the threshold set out under Rule 32 of the Rules of this Court.

7. For the foregoing reasons I find the Respondent's application to be without merit and proceed to dismiss it with costs to the Claimant. The interim orders granted on 26th April 2016 are hereby vacated.

8. It is so ordered.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 8TH DAY OF JULY 2016**

**LINNET NDOLO**

**JUDGE**

**Appearance:**

Mr. Khalwale for the Claimant

Mr. Osoro for the Respondent