



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 1421 OF 2013**

**PATRICK MUTUNE KIMEU.....CLAIMANT**

**VERSUS**

**ATHI STORES LIMITED.....RESPONDENT**

**RULING**

1. The applicant seeks stay of execution of judgment of Nzioki Makau J. delivered on 29<sup>th</sup> June 2016 in favour of the claimant.
2. The court has considered the submissions by both parties and has come to the conclusion that the applicant has an arguable appeal but the dictates of justice require a balancing act, in that the claimant has waited for a long time to get his day in court and should be allowed to enjoy part of the decretal sum pending appeal.
3. The application was brought timeously but the court is satisfied that payment of half the decretal sum will not render the appeal nugatory.
4. Accordingly, the court makes the following orders;
  - i. The court grants stay of the judgment delivered on 29<sup>th</sup> July 2016 pending appeal.
  - ii. The respondent to pay the claimant half of the judgment sum and deposit the balance with the court within ten (10) days of this ruling failing which the order for stay of execution to automatically lapse and execution to issue.

**Dated and delivered at Nairobi this 20<sup>th</sup> day of December, 2016**

**MATHEWS NDERI NDUMA**

**PRINCIPAL JUDGE**