



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS**  
**COURT OF KENYA AT NAIROBI**  
**CAUSE NO. 1528 OF 2011**

**STANLEY MOMBO AMUTI ..... CLAIMANT**

*VERSUS*

**NATIONAL WATER CONSERVATION &  
PIPELINE CORPORATION ..... RESPONDENT**

**RULING**

1. The Applicant seeks an order for stay of execution of the judgment of the Court delivered on 1<sup>st</sup> October 2014 pending the hearing and determination of the intended Appeal.
2. The Applicant submits that the judgment debt is for a sum of Kshs.9,938,800.00 and is likely to involve attachment of vital equipment and assets of the Applicant who is a state corporation and thereby hinder the performance of its Statutory mandate.
3. That the Corporation is willing to put up such reasonable security for the payment of the judgment debt.
4. That there has been no substantial delay in filing the application.
5. That the Application be granted to protect public interest.
6. The Application is further supported by the Affidavit of Justus A. Wabuyabo, the General Manager Corporate and legal services of Applicant.
7. Upon a careful perusal of the grounds in support of the Application set out on the face of the Notice of Motion and the contents of the supporting Affidavit aforesaid, there is not a single mention of the merits of the intended Appeal.
8. The Applicant has not indicated any grounds upon which the intended appeal is based.
9. It is a requirement that the intended appeal be arguable for the Court to grant a stay of execution.
10. The Court can only determine whether or not the intended Appeal is arguable from the contents of the Application.

In the circumstances the Applicant has failed in this respect.

11. With regard to the 2nd requirement, being whether failure to grant the stay would render the Appeal nugatory, the Court notes that the judgment is sounding in money and there is no indication that the Claimant / Respondent is a man of straw.

12. The Appeal will thus not be rendered nugatory if the stay of execution is not granted.

13. The judgment debt is in respect of terminal benefits arising from completed and uncompleted term of contract. The Claimant is entitled to enjoy the fruits of the judgment.

Accordingly the Application for stay of execution pending Appeal is dismissed with costs.

**Dated and Delivered at Nairobi this 6<sup>th</sup> day of February, 2015**

**MATHEWS N. NDUMA**

**PRINCIPAL JUDGE**