



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

CAUSE NO. 285(N) OF 2009

SAUM ACHIENG' OTIENO CLAIMANT

VERSUS

RODENTKIL CLEANING COMPANY LIMITED.....RESPONDENT

RULING

1. The Application for stay pending Appeal dated 10th April, 2014 against the Judgment of D.K. Njagi Marete entered on 20th December, 2013 in favour of the Claimant/Respondent is based on the grounds set out in the Chamber Summons and the Supporting Affidavit of Shamsa Gathoni Ibrahim sworn on 10th April, 2014.
2. The Applicant states that the Judgment was entered against the Application without notice to the Applicant.
3. That the Applicant only became aware of the Judgment when its goods were attached on 4th April, 2014 by the firm of Moraa Auctioneers.
4. That the intended execution will render the Appeal nugatory.
5. The Applicant states that the Appeal is arguable and has good prospects of success.
6. The Application is opposed by the Claimant/Respondent but no reason is advanced as to why the Respondent was in default of appearance.
7. The Advocate on record at the time was properly served and failed to appear at the hearing severally.
8. The Advocate has now conveniently withdrawn from the matter to allow another Counsel prosecute this Application.
9. The Notice of Appeal was filed on 10th April, 2014 and the Judgment was delivered on 20th November, 2013.
10. The Notice was lodged way out of time and there was no application filed with the Court of Appeal for enlargement of time at the time of hearing this Application on 26th February, 2015, more than one

year from the date of the Judgment.

11. The court finds that, the Application has no merit at all. The same amounts to an abuse of the court process intended to deny the Claimant/Respondent the fruits of his Judgment.

12. The Application is therefore dismissed with costs.

Dated at Nairobi this 23rd day of April, 2015.

MATHEWS N. NDUMA

PRINCIPAL JUDGE

Delivered by Hon. Hellen Wasilwa on 24th day of April, 2015.

In the presence of