



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

CAUSE NO. 2181 OF 2014

TRAILINK GROUP LIMITED.....CLAIMANT

VERSUS

KENYA LONG DISTANCE TRUCK

DRIVERS AND ALLIED WORKERS UNION.....RESPONDENT

RULING

1. Application dated 9th April 2015 seeks inter alia, a stay of execution of the orders issued on 13th March, 2015 pending the hearing and determination of the Appeal.

The orders of the Court are as follows;

- i. That the union be and is hereby directed not to embark on the intended strike action as per the notices issued.
- ii. That the employer be and is hereby directed not to lock out any of the employees from its premises and allow them to work normally and the employer to pay their remuneration in terms of their contracts of employment in compliance to the Return to work Formula entered into on 15th December 2014.
- iii. That union be and is hereby directed to respond to the main suit filed by the employer on 8th December 2014.

2. The Claimant / Applicant noted an Appeal against the aforesaid ruling of the Court.

3. The Ruling was pursuant to the hearing and determination of two Applications, one filed by the Claimant / Applicant dated 5th December 2014 and another filed by the Union / Respondent on 5th January 2015. In both Applications interim relief was sought.

4. The two were heard and determined together by consent of the parties resulting in the orders of the Court cited herein before. The Applications and the consequent orders are interlocutory in nature pending the hearing and determination of the suit.

5. It is trite that a party that intends to appeal an interlocutory ruling must seek leave of the trial Court to do so.

6. The Notice of Appeal was filed on 16th March 2015 without seeking leave of the Court.
7. The Applicant has not demonstrated that the Intended Appeal has reasonable probability of success nor has the Applicant satisfied the Court that failure to grant stay of the orders of the ruling of the Court issued on 13th March 2015, would render the Appeal nugatory.
8. The Claimant / Applicant filed a Memorandum of Claim dated 5th December 2014 on 8th December 2014 in which the reliefs sought are as follows;
 - i. An injunction do issue restraining the Respondents, its employees, servants and or agents from carrying on with the intended strike.
 - ii. An injunction do issue restraining the Claimants employees from participating in the intended strike.
 - iii. Any further relief that the Honourable Court may deem fit to grant.
9. The ruling of the Court delivered on 13th March 2015, is in keeping with the reliefs sought in the main suit and the Court fails to comprehend to what end, the Application for stay of the ruling and consequential orders is directed.
10. In other words, the Claimant / Applicant seeks the assistance of the Court in the main suit to keep its employees at work and on the other hand is averse to an interim order that does exactly that.
11. The Application lacks merit and same is dismissed with costs.

Dated and Delivered at Nairobi this 29th day of May, 2015.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE