

REPUBLIC OF KENYA
IN INDUSTRIAL COURT AT MOMBASA
CAUSE NO. 118 OF 2012

(Originally Cause Number 497 of 2011 in the Industrial Court at Nairobi)

BETWEEN

TRANSPORT AND ALLIED WORKERS UNION.....CLAIMANT

VERSUS

COMARCO PROPERTIES (EPZ) LIMITED.....RESPONDENT

RULING

The Court is satisfied, the Respondent has satisfied the conditions required for the grant of an order of stay of execution.

The Industrial Court (Procedure) Rules 2010 are not silent on the requirements for grant of stay as submitted by Mr. Sitonik.

Rule 31 (2) of the Rules adopts the Rules applicable in the High Court on execution of decrees.

The standards adopted by the Respondent from the High Court, in arguing this application are the correct measure.

There is an arguable appeal. It does not have to be demonstrated that appeal shall be successful. There is security deposited in court; the Respondent has instigated the process of appeal; and has approached this Court for stay in good time. The Claimant has not made any attempt to show that the Grievant would be able to refund to the Respondent the sum decreed, in event the appeal is successful.

In the circumstances the court orders:-

(a) Execution of the decree from the Award of this court delivered on 20th March, 2015 is stayed

(b) No order on the Costs.

Dated and delivered at Mombasa this 11th day of May 2015.

James Rika

Judge