



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

**AT NAIROBI**

**CAUSE NUMBER 675 OF 2012**

**WILLIAM M. BURUGU.....CLAIMANT**

**VERSUS**

**SOLOH WORDWIDE INTER-ENTERPRISES LTD.....RESPONDENT**

**RULING**

1. The applicant seeks stay of execution of my judgment delivered on 20<sup>th</sup> February, 2015 pending the hearing and determination of an appeal yet to be filed by the applicant.
2. The application is brought on the grounds among others that the applicant has filed a notice of appeal and has an arguable appeal with high probability of success.
3. The applicant further contends that the respondent is a man of straw with no known fixed abode and primary source of income that would reasonably satisfy the reimbursement of the decretal sum in the event the appeal is successful.
4. I have considered submissions by Counsel on considerations the Court needs to take into account while deciding whether to grant or refuse a stay. I have also reviewed the very useful case relied on by Counsel in support of their respective positions.
5. Under Order 42 of the Civil Procedure Rules, no order of stay shall be made under sub rule 1 unless the Court is satisfied that substantial loss may result to the applicant unless the order is made and that the application is made without unreasonable delay and further that such security as the Court orders for the due performance of such decree or order as may ultimately be binding on him has been given by the applicant.
6. I have not had the benefit of seeing the Notice of Appeal or draft grounds of Appeal to see on what grounds my judgment is being impugned however my concern in dealing with an application for stay pending appeal is not arguability of the appeal or not and its probability of success. My concern at this stage is whether if I do not stay my order the applicant would suffer substantial loss and further whether the applicant has offered suitable security that may ultimately be binding upon him.
7. The merit or otherwise of the Appeal aside, the applicant has offered to deposit decretal sum in Court as security. The Court therefore in disposing of this application hereby directs that the sum of Kshs.273,300/= be deposited in joint interest earning account in the name of advocates for the parties within fourteen days of this ruling pending the hearing and disposal of the intended appeal.

8. In default execution to proceed.

9. It is so ordered.

Dated at Nairobi this 9<sup>th</sup> day of October 2015

Abuodha J. N.

Judge

Delivered this 9<sup>th</sup> day of October 2015

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

Abuodha J. N.

Judge