



**IN THE INDUSTRIAL COURT OF KENYA AT KISUMU**

**CAUSE NO. 180/2013**

(Before Hon. Justice Hellen S. Wasilwa on 31<sup>st</sup> July, 2014)

JAPHETH M. ERAZIA ..... CLAIMANT

**-VERSUS-**

BUDGET DRIVING SCHOOL ..... RESPONDENTS

**RULING**

The issue before court is on execution. The issue is whether the respondents can be allowed to execute in instalments of Ksh 50,000/= per month or not. This would basically be an issue for determination before the Deputy Registrar which I would have let the Deputy Registrar determine but for the other prayer where the respondents seek stay of execution pending determination of this application. The application as it were is being determined by virtue of this ruling and therefore there would be no need to grant any other stay orders.

What therefore remains is the issue of execution in instalments. I have considered the affidavits filed by both parties. The claimant allege that the respondents collect fees from their students on a daily basis and therefore cannot lack money to pay. The respondents on the other hand aver that the money they collect is adequate for running of institution including payment of salaries and is not enough to offset the decretal sum at once.

I exercise my discretion and order that the respondents offset the decretal sum in 4 equal monthly instalments with effect from 5th August 2014 and on 5th of every subsequent month until payment in full. In default execution to issue.

**HELLEN WASILWA**

**JUDGE**

**31/7/2014**

**Appearances:-**

Ondego for respondent applicants present

N/A for claimant

CC. Wamache