

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

[LABOUR DIVISION]

AT ARUSHA

MISC. LABOUR APPLICATION No. 17 OF 2022

(C/F Labour Dispute No. CMA/MNR/HNG/16/21)

HLH MULBADAW LTD.....APPLICANT

VERSUS

JOHN JOSEPH SANKA.....RESPONDENT

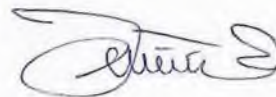
RULING

18th August & 09th September, 2022

TIGANGA, J.

This ruling is in respect of the application for stay of execution filed by the applicant. The execution sought to be stayed is of the award issued by the Commission for Mediation and Arbitration of Mnyara, at Babati, herein after referred to as the CMA, in Labour Dispute No. CMA/MNR/HNG/16/2021 which was heard and determined ex parte by the CMA.

The application was made under section 91(3) of the Employment and Labour Relations Act [Cap 366 R.E 2019] hereinafter referred to as the Act, and Rules 24(1) (2) (a) (b) (c) (d) and (f) of the Labour Court



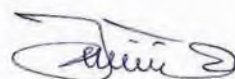
Rules, herein after referred to as the Rules, GN 106 of 2007 and any other enabling provision of law.

The court was sked to stay the execution of the CMA in the above referred to dispute pending hearing and determination of the application No. CMA/MNR/HNG/16/2021 seeking to set aside the ex parte award.

The application was made by chamber summons and supported by the affidavit sworn and filed by Mr. Qamara Aloyce Peter in which the grounds of the application were advanced, as well as the historical background of the dispute between the parties. The application was opposed by the respondent by filing the counter affidavit sworn by John Joseph Sanka the respondent.

In the affidavit filed in support of the application and the submissions made by Mr. Qamara, Advocate in that regard, it is glaringly clear that, the applicant was the respondent in the original labour dispute which was heard and determined ex parte by the CMA, in favour of the respondent herein. The applicant has now filed the application to set aside the award which was passed ex parte. In their view that is a sufficient ground for stay of execution.

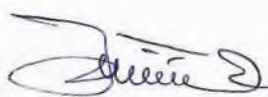
The respondent who was represented by Mr. Said Ndisi Personal Representative, who asked the application to be disallowed. In opposition



of the application, he said the applicant were served but did not appear before the CMA to defend the case against them. Now, since they did not appear the execution should not be stopped or stayed. He said. Now, Looking at his arguments, to the great extent, he attacked the failure of the respondent to appear before the CMA which I think is not the subject of this application.

I have taken into consideration the fact that the application seeks to stay the execution of the award which was made ex parte and now there is an application for setting aside an ex parte award, which is pending before the CMA, the facts which has not been disputed by the respondent. Basing on the prevailing circumstances in this case, logic and common sense dictate that, pending such an application it is in the interest of both parties, justice and the sanity of the proceedings that, the impending execution application be stayed pending the application for setting aside of the ex parte award which is pending before the CMA.

That said, the application is hereby granted, the execution of the award passed by the CMA in Labour Dispute No. CMA/ MNR/HNG/16/2021 is stayed pending hearing and determination of the application for setting aside an ex parte award.

3 

It is accordingly ordered.

DATED at **ARUSHA**, this 09th day of September, 2022.




J. C. TIGANGA

JUDGE