

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LABOUR DIVISION)
AT ARUSHA**

MISC. LABOUR APPLICATION NO. 71 OF 2022

(C/F Labour Execution No. 132 of 2021)

LETSHEGO BANK (T) LIMITED APPLICANT

AND

EMMANUEL ALOYCE BASSO..... RESPONDENT

RULING

19/12/2022 & 22/12/2022

GWAE, J

This ruling emanates from an application for stay of execution brought by the applicant, Letshego Bank (T) Limited under Rules 25 (1)-(9) of the Labour Court Rules, 2007. The application is aimed at staying execution order made by the Deputy Registrar of the Court vide and Application for Execution No. 132 of 2021 especially transfer of Tshs. 11,197,238/= in favour of the respondent, Emmanuel Aloyce Basso pending determination of Revision No. 58 of 2021.

Through an affidavit of one Ladislaus Lagwe, the applicant's head of legal and Company Secretary, the applicant stated that, he stands to suffer more irreparable loss if execution No. 132 of 2021 will be allowed

to proceed than the respondent who may not be able to refund of the amount of money if revision succeeds.

On the other hand, the respondent strongly opposed this application through his counter affidavit by stating that, this application is res-judicata and that there is nothing to stay.

When this matter was called on for hearing, Mr. Sabato, the learned advocate appeared representing the applicant whilst the respondent appeared in person. Supporting this application, Mr. Sabato argued that, the prayer of stay of the transfer of money deposited into the court's account be granted and such money be withheld until determination of revision application.

The respondent on the other hand argued that, this application is basically aimed at justice delay adding that, the applicant ought to have objected execution proceedings before the Deputy Registrar.

In his short rejoinder, Mr. Sabato stated that, the bank is capable of paying the respondent if the revision application is not decided in her favour.

I am now to determine whether it is just and fair to grant or refuse this application for stay of an accomplishment of the execution of the respondent's award procured by the Commission for Mediation and Arbitration. I have keenly taken into account the kind of loss that, the

applicant may suffer if the sum of money deposited in the court's account is released in favour of the respondent and if the application for revision No. 132 of 2021 is determined not in favour of the respondent. More so, there is unlikelihood of refund of the money by the respondent if the amount withheld by the Court is transferred to him. It goes without saying that, should the revision be heard and determined in favour of the applicant, the one who will suffer more irreparable loss is the applicant than the respondent. Therefore, the applicant's injury will obviously be material. I subscribe my finding in the decision of the Court of Appeal of Tanzania in **East African Development Bank vs. Blueline Enterprises Limited** (2006) 2 EA 51 where it was stated and I quote;

"There is sufficiently good reason for granting stay of execution. There is an appeal pending in this Court against the very decision of the learned Judge on costs which is sought to be stayed. Granting stay of execution would be in the interests of justice rather than carrying on the execution process pertaining the costs in which there is some uncertainty. Having regard to the circumstances of the case, the balance of convenience and common sense tilts in favour of the applicant to grant stay of execution."

In our instant application, it is undoubtedly clear that, there is an application for revision pending in this court. Similarly, considering the balance of convenience to between the parties, it is my considered opinion that, prevention of the applicant's application for revision pending in the court from being nugatory is more important by withholding the money in the court's account pending hearing and determination of the application

Basing on the foregoing reasons, I find merit in the application and I hereby grant it. I order the stay of the execution to the extent of **not** transferring the money, Tshs. 11, 197,238/= withheld by the court to the respondent until determination of Applicant's Revision Application No. 132 of 2021. Given the fact that, this matter is the labour dispute, each party shall bear his or her own costs.

It is so ordered.

DATED at DODOMA this 22nd December 2022




M. R. GWAE
JUDGE