

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

AT ARUSHA

MISC. LABOUR APPLICATION NO. 12 OF 2022

(C/F Application for Execution No. 14 of 2021 and Misc. Labour Application No. 57 of 2021, originate from the CMA decision No. CMA/ARS/569/19/256/19)

BETWEEN

RIVERTREES COUNTRY INN..... APPLICANT

VERSUS

SAMWEL MOSHI..... RESPONDENT

RULING

24.03.2022 & 24.03.2022

N.R. MWASEBA, J.

This application has been brought under certificate of agency. The applicant, Rivertrees Country Inn sought for stay of execution under Section 91 (3) of the Employment and Labour Relations Act, No. 6 of 2004, Rule 24 of the Labour Court Rules GN No. 106 of 2007 and Order XXI Rule 24 of the Civil Procedure Code, Cap 33 R.E 2019 pending determination of Misc. Labour Application No. 57 of 2021 which is an

application to set aside dismissal order in respect of Misc. Labour Application No. 14 of 2021.

Before this court the applicant was represented by Mr. Stephen D. Mushi, learned advocate while the respondent was represented by Mr. Frank Wilbert Makishe, learned advocate.

When the application was called for mention on 24th day of March 2022, the counsel for the respondent told the court that for the interest of justice they have decided to concede to the application for stay of execution pending determination of the application to set aside a dismissal order.

On his side, the counsel for the applicant contended that since their application has not been objected by the respondent, he prayed for it to be granted pending the determination of the application to set aside dismissal order.

There is no dispute that before this court, there is a pending application for setting aside the dismissal order which is Misc. Labour Application No. 57 of 2021. Thus, if stay of execution will not be granted, the said application will be overtaken by event and the parties will suffer in one way or another.

Section 91(3) of the Employment and Labour Relations


Act, CAP 366 R.E 2019 stipulates that:

"The Labour Court may stay the enforcement of the award pending its decision."

In view of the above provision and arguments from both parties, and since there is no objection to this application, it is ordered that the application for stay of execution of CMA award in Labour dispute No. CMA/ARS/569/19/256/19 is granted pending determination of Misc. Labour Application No. 57 of 2021. Each party to bear own costs.

It is so ordered.

DATED at ARUSHA this 24th day of March, 2022.


N.R. MWASEBA

JUDGE

24.03.2022

