



**IN THE HIGH COURT OF SIERRA LEONE**  
**INDUSTRIAL DIVISION**

IC10/15

NATHANIEL KANGAJU & ORS.

PLAINTIFF

AND

THE GENERAL MANAGER  
LEONE DOCK COMPANY

DEFENDANT

**REPRESENTATION:**

ELVIS KARGBO ESQ.

COUNSEL FOR THE PLAINTIFF

E. PAPS-GARNON

COUNSEL FOR THE DEFENDANT

**BEFORE THE HON. MR. JUSTICE SENGU KOROMA JA.**  
**PRESIDENT OF THE INDUSTRIAL COURT**  
**JUDGMENT DELIVERED ON THE 28<sup>TH</sup> NOVEMBER, 2018**

1. This is an application by way of Notice of Motion dated 15<sup>th</sup> October, 2018 for the following Orders:

1. That this Honourable Court grants a stay of Execution of the Judgment of the Court dated the 15<sup>th</sup> day of February, 2018 pending the hearing and determination of this Application.
2. That this Honourable Court grants a stay of Execution of the Judgment of this Honourable Court pending the hearing and determination of an Appeal dated the 11<sup>th</sup> day of October, 2018
3. Any other or further Orders that this Court may deem just.
4. That the costs of the Application be costs in the cause.

The application is supported by the affidavit of Editayo Paps-Ganon sworn to on .....day of October, 2018.

2. The matter came up for hearing on Thursday, 1<sup>st</sup> November, 2018. Before Counsel for the Defendant could move his application, Counsel for the Plaintiff/Respondent raised a preliminary objection on the following grounds:
  - a) That through the Applicant is applying for a stay pending the hearing and determination of an appeal dated 11<sup>th</sup> October, 2018, no appeal was filed.
  - b) That the Applicant is out of time to appeal the Judgment of this Court dated the 15<sup>th</sup> February, 2018.
3. Mr. Paps-Ganon in response submits that his learned friend has not raised any proper point. According to him, he was not in Court at a particular time because no notice was served on him but his learned friend nonetheless informed the Court that he had written a letter informing him of the hearing. As a result of that, the file was withdrawn for Judgment. This is an application to set aside that Judgment which was given under Order 41 of the High Court Rules, 2007. The present application is made under Order 41 Rule 2 of the High Court Rules, 2007.
4. Mr. Paps-Ganon further submits that this Court should have heard the application for a stay to be made before time starts to run as required by Order 35 Rule 2 of the High Court Rules, 2007.
5. I have listened to submissions of Counsel and wish to clarify that the file was withdrawn for Judgment in accordance with Rule 8 (2) of the Regulation of Wages and Industrial Relations Act, 1971 and the High Court (industrial Court Division) procedure Rules, 2001 and not under Order 41 of the High Court Rules, 2007. What the Applicant should have done is to apply under Rule 8 (2) which provides that "Any determination or award obtained where a party does not appear may, upon an application being made within 6 days of such determination or award or within such longer time as the Court may allow be set aside by the Court upon such terms as it may be considered just".
6. The Court heard an application dated 23<sup>rd</sup> February, 2018 for a stay of execution of the Judgment dated 15<sup>th</sup> February, 2018. This application was refused and an Order given on the 9<sup>th</sup> October, 2018 for the final Judgment to take effect.
7. This is an application for a stay pending appeal. However, as pointed out by Counsel for the Plaintiffs, this application is clearly out of time and there has not been

any application for enlargement of time. The intervening applications have no bearing on the import of Rule 8 (2). There is no application for a stay of the Ruling of this Court dated 9<sup>th</sup> October, 2018 which is the operating decision in this matter.

8. In the circumstance, the preliminary objection is upheld and I hereby Order as follows:-

- i. The Notice of Motion dated 15<sup>th</sup> February, 2018 filed by the Defendant herein is struck out;
- ii. That the Judgments of this Court dated the 15<sup>th</sup> day of February, 2018 and the 18<sup>th</sup> day of July, 2018 respectively as confirmed by a Ruling of this Court dated 9<sup>th</sup> day of October, 2018 be enforced.
- iii. Interest thereon at the rate of 10 percent per annum from October, 2015 to date of Judgment
- iv. Costs to be taxed if not agreed.

  
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**HON. MR. JUSTICE SENGU KOROMA JA.**  
**PRESIDENT OF THE INDUSTRIAL COURT**