



Hardie v Alex Odundo t/a Olex Techno Enterprises (Commercial Case E009 of 2023) [2024] KEHC 4638 (KLR) (2 February 2024) (Ruling)

Neutral citation: [2024] KEHC 4638 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
COMMERCIAL CASE E009 OF 2023
RE ABURILI, J
FEBRUARY 2, 2024**

BETWEEN

ROBIN HARDIE PLAINTIFF

AND

ALEX ODUNDO T/A OLEX TECHNO ENTERPRISES DEFENDANT

RULING

1. I have perused the application dated February 1, 2024 under Certificate of Urgency. I find no urgency involved. I do not certify it as urgent.
2. However, I observe that in the affidavit in support of the application for setting aside of the orders striking out the suit herein for want of signatures on the plaint and the witness statement, the applicant's counsel annexes a duly signed plaint and witness statements, which documents are not the ones that were paid for on filing.
3. For avoidance of doubt, this court did not have to issue any Notice to Show cause before striking out pleadings which are not signed as that is a Preliminary issue which the court must satisfy itself with, that there are competent pleadings before it before it can admit the suit and since the filing is now electronic, the registry staff have no means of vetting documents which are filed.
4. It follows that parties must ensure that pleadings they upload and pay for are duly authenticated. The court shall not issue any notices to show cause over documents which are already filed. It will proceed to strike out and it will be upon the affected party to approach the court with properly authenticated documents.
5. This court therefore committed no error of fact. However, as it is now clear that duly signed plaint and witness statements have been uploaded in the system, I hereby review and set aside the order of January 26, 2024 striking out the Plaint and Witness statement and reinstate the suit herein as filed on September 21, 2023.



6. There shall be no orders as to costs.
7. The file to be placed before the Deputy Registrar on February 6, 2024 for consideration of the request for entry of interlocutory judgment in default of appearance and defence.
8. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 2ND DAY OF FEBRUARY, 2024

R. E. ABURILI

JUDGE

