



**Juma v Pamoja Trust (Employment and Labour Relations Cause E721 of 2021) [2024] KEELRC 1838 (KLR) (9 July 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1838 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS CAUSE E721 OF 2021**

**K OCHARO, J**

**JULY 9, 2024**

**BETWEEN**

**GABRIEL SILA JUMA ..... CLAIMANT**

**AND**

**PAMOJA TRUST ..... RESPONDENT**

**RULING**

1. The Claimant/Applicant, Gabriel Sila Juma by his notice of motion dated 13<sup>th</sup> September 2023, prays that he be granted to file a supplementary bundle of documents.
2. The grounds disclosed on the face of the application, and in the applicant’s supporting affidavit sworn on the 13<sup>th</sup> of September, 2023, are to the effect that under the list of documents dated 20<sup>th</sup> August, 2021, he filed documents in support of his claim, among them an unsigned copies of audit reports. He has since discovered that he had the signed versions in his flash disc, which he had misplaced. It is imperative that the signed reports be brought to record before the matter is heard.
3. Technically, the documents that the Applicant seeks to bring on board aren’t new. The documents will assist the Court in determining the controversy herein effectively. Further, the Respondent won’t be prejudiced if the leave sought is granted.
4. The Respondent resisted the application on the premise on the premise of grounds set out on the replying affidavit sworn by Samuel Olando on the 10<sup>th</sup> October 2023. The grounds are; that the application is a delaying tactic geared toward delaying the substantive hearing of this matter; the Applicant could have made the application before the pre-trial conference; and during the pre-trial conference, the Applicant didn’t disclose that he was to rely on the reports in support of his case, and that he will call so and so to produce them.
5. Lastly, the intended evidence contravenes the provisions of Article 50[4] of the Constitution of Kenya, 2010.



6. I have carefully considered the submissions by the parties herein and the authorities cited. This ruling is with the same in mind.
7. Considering that; the reports sought to be filed are not new documents, but signed versions of those that are filed herein already; the fact that the Respondent didn't raise any issue as regards the constitutional or legal propriety of those unsigned copies being part of the documents filed by the Applicant under the list above mentioned during the pre-trial conference and before the matter was certified ripe for hearing and a date given for the same, I am of a clear view, that granting the leave sought by the Claimant/Applicant will not prejudice the Respondent in any manner. Further, shortly hereinafter, I will grant the Respondent leave to file a further bundle of documents or witness statement, should it find it necessary to do so for purposes of discounting the narrative that the Applicant wants to bring out of the reports.
8. The matters of admissibility of evidence raised in the replying affidavit by the Respondent can be best raised as an objection to the production of the documents at an appropriate moment.
9. In the upshot, I am convinced that the justice of this matter demands that the Applicant's notice of motion be allowed, and it is hereby allowed on the following terms;
  - I. The Claimant/Applicant is granted leave of 7 days to file and serve a supplementary list of documents, onboarding unto the record the signed copies of the audit reports.
  - II. The Respondent shall be at liberty to within 14 days of service of the supplementary documents, file and serve a further witness statement touching on the documents if need be.

**READ, DELIVERED AND SIGNED THIS 9<sup>TH</sup> DAY OF JULY, 2024.**

**OCHARO KEBIRA**

**JUDGE**

In the Presence of:

Mr. Ongato for the Ms. Muthoni for Claimant.

No appearance for the Respondent.

**Order**

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

**OCHARO KEBIRA**

**JUDGE**

