



**Kiilu v Survo General Works; Survo General Works Limited (Interested Party)  
(Cause 692 of 2013) [2024] KEELRC 2098 (KLR) (2 August 2024) (Ruling)**

Neutral citation: [2024] KEELRC 2098 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 692 OF 2013**

**J RIKA, J  
AUGUST 2, 2024**

**BETWEEN**

**PETER MUENDO KIILU ..... CLAIMANT**

**AND**

**SURVO GENERAL WORKS ..... RESPONDENT**

**AND**

**SURVO GENERAL WORKS LIMITED ..... INTERESTED PARTY**

**RULING**

1. The Interested Party filed an application dated 7<sup>th</sup> February 2024, asking the Court for an order that, Judgment delivered by the Court in favour of the Claimant, is set aside
2. The Interested Party submits, that it is not the same entity as the Respondent.
3. The court has carefully examined affidavits filed by the Parties in relation to the Application.
4. It has scrupulously examined documents filed by the Parties.
5. It is clear that the Claimant’s Advocates exchanged correspondence with the Interested Party on the dispute, prior to filing of the Claim. The Applicant’s deponent and director Mercy Muthoni Mbuba authored the correspondence. The postal address and letterheads of the Respondent and the Interested Party are the same. The Respondent admitted the description of the Parties in responding to the Claim. Documents relied upon by the Respondent in responding to the Claim, such as Customer Statement [ SGW 4], Delivery Note [SGW 5] and the Final Dues for the Claimant [SWG 8], were all issued by, and under the letterhead of, the Interested Party.
6. The argument by the Interested Party that it is a separate legal entity from the Respondent, is neither here nor there. There is evidence that the Respondent and the Interested Party are the same business,



which employed the Claimant. They need not be the same legal entity to assume the liability of an Employer, within the meaning of the term 'Employer,' under section 2 of the *Employment Act*. The Respondent and the Interested Party were part of the same business, and the legal structure they assumed, in conducting their business, has no bearing on their liability, as the Claimant's Employer. It suffices that they were the same business, the same Employer, whether transacting as Survo General Works or Survo General Works Limited.

It is ordered : -

- a. The Application filed by the Interested Party dated 7<sup>th</sup> February 2024 is declined.
- b. Costs to the Claimant.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI,  
UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT  
PRACTICE DIRECTIONS 2020, THIS 2<sup>ND</sup> DAY OF AUGUST 2024.**

**JAMES RIKA**

**JUDGE**

