



**Obutu v Insight Management Consultant Ltd (Miscellaneous Application E046 of 2024) [2025] KEELRC 2903 (KLR) (24 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2903 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E046 OF 2024**

**AK NZEI, J  
OCTOBER 24, 2025**

**BETWEEN**

**FRANCIS MOSE OBUTU ..... APPLICANT**

**AND**

**INSIGHT MANAGEMENT CONSULTANT LTD ..... RESPONDENT**

**RULING**

1. The application before me for determination is the Applicant's Notice of Motion dated 20<sup>th</sup> February, 2024. The Applicant seeks the following orders:-
  - a. Spent.
  - b. That the Court be pleased to adopt the assessment of the Director of Occupational Safety as an order of the Court.
  - c. That a decree be issued in accordance with the assessment of the Director of Occupational Safety for the sum of Kshs.65,989.83/=.
  - d. That a decree be issued to the effect that damages of Kshs.65,000/= be awarded to the Applicant for the Respondent's failure to pay the amount assessed by the Director of Occupational Safety and Health.
  - e. That costs of the application be awarded to the Applicant.
2. The application is anchored on the Applicant's Supporting Affidavit sworn on 20<sup>th</sup> February, 2024. It is deponed in the said Supporting Affidavit:-
  - a. that the Applicant was gainfully employed by the Respondent as a general worker, and that he suffered injury to his right hand fingers on 10<sup>th</sup> July, 2020 while in the course of his duties.



- b. that the Claimant was treated and the matter was reported to the Director of Occupational safety, who did an assessment and awarded the Applicant Kshs.65,989.83/=.
  - c. that the Respondent has refused to pay the assessed sum despite demand, and that the ninety days provided for under Section 26(4) of the Work Injury Benefits Act for settlement of an assessed sum have since lapsed; and that no appeal was preferred.
  - d. that the Claimant has suffered due to the Respondent's failure to pay, and that the Respondent should be directed to pay damages in the sum of Kshs.65,000/=.
3. Documents annexed to the said Supporting Affidavit include a copy of Form DOSH/WIBA/4 dated 2<sup>nd</sup> August, 2021 and containing the assessment of Kshs.65,989.83/= made by the Director of Occupational Safety and Health Services (Director) in favour of the Applicant. The said document, shown to have been signed by the Director on 4<sup>th</sup> August, 2021, is addressed to the Respondent; and demanded payment of the said assessed sum within sixty days.
  4. The application is opposed by the Respondent vide a replying affidavit of Edinah Masanya sworn on 20<sup>th</sup> June, 2025. It is deponed in the said replying affidavit:-
    - a. that the Applicant filed Nairobi ELRC Cause No. E608 of 2022 between the parties herein vide a statement of claim dated 26<sup>th</sup> August, 2022 and accompanied by a verifying affidavit, a list of witnesses and witness statement of the Applicant, and a list ad bundle of documents.
    - b. that in the said statement of claim, the Applicant sought reliefs which included a claim for the Kshs.65,989.83/= assessed by the Director, damages in the sum of Kshs.100,000/=, costs and interest.
    - c. that the Respondent filed a Notice of Preliminary Objection dated 14<sup>th</sup> November, 2023 disputing this Court's jurisdiction, to which the Applicant responded vide a replying affidavit sworn on 14<sup>th</sup> December, 2023; and that rival submissions were filed.
    - d. that vide a Ruling dated 2<sup>nd</sup> August, 2024, the Court (James Rika, J) dismissed the Applicant's said suit for want of jurisdiction.
    - e. that the Applicant has now approached the Court vide a Notice of Motion application seeking similar reliefs as those sought in the dismissed suit; and that the Court ought to down its tools.
    - f. that the only interaction that exists between work injury and the Court is through appeals from the Director's awards, filed with the Employment and Labour Relations Court; and that the Applicant herein seeks enforcement of the Director's award.
  5. Documents annexed to the said Replying Affidavit include copies of suit documents filed by the Applicant in this Court's ELRC Cause No. E608 of 2022 (Francis Mose Obutu Vs Insight Management Consultants Limited) and the Court's Ruling delivered on 2<sup>nd</sup> August, 2024 (James Rika, J), declining the claim for want of Jurisdiction, with no order as to costs.
  6. The Applicant filed a further affidavit sworn by himself on 4<sup>th</sup> July, 2025. Rival submissions on the Applicant's application were filed pursuant to the Court's directions in that regard.
  7. I have noted from the record placed before me that reliefs sought in the aforesaid previous suit were similar to those sought in the present application. Indeed, this is a common ground. The Applicant is not shown to have appealed against this Court's Ruling delivered on 2<sup>nd</sup> August, 2024 "declining the



claim for want of jurisdiction, with no order as to costs.” The said Ruling is not shown to have been set aside, either upon review or for any other reason.

8. Filing of a subsequent suit, whether by way of a Miscellaneous Cause or by way of a substantive suit, while the said Ruling/Orders remain in place, is an abuse of this Court’s process. Although this Court’s view on matters presented for determination both in the previous suit and in the present application may be different from that of the Court that dealt with the previous suit, entertaining the present application would amount to the Court sitting in appeal over its own decision. Under Section 17 of the *Employment and Labour Relations Court Act*, appeals from this Court’s decisions lie to the Court of Appeal.
9. In sum, and having considered written submissions filed, I return a finding that the Applicant’s Notice of Motion dated 20<sup>th</sup> February, 2024 is incompetent, and is an abuse of this Court’s process. The application is hereby dismissed, with no order as to costs.
10. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 24<sup>TH</sup> DAY OF OCTOBER 2025**

**AGNES KITIKU NZEI**

**JUDGE.**

**ORDER.**

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

**AGNES KITIKU NZEI.**

**JUDGE**

Appearance:

Mr. Nabede for the Claimant

Miss Waheed for the Respondent

**DRAFT.**

