



Shego v Nihal Construction Limited (Employment and Labour Relations Cause 413 of 2017) [2025] KEELRC 3006 (KLR) (30 October 2025) (Ruling)

Neutral citation: [2025] KEELRC 3006 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE 413 OF 2017**

**MN NDUMA, J
OCTOBER 30, 2025**

BETWEEN

LEVI KERONYE SHEGO CLAIMANT

AND

NIHAL CONSTRUCTION LIMITED RESPONDENT

RULING

1. The court in its ruling dated 13th March 2025 in respect of application dated 12th July 2014 in which the Respondent/Applicant sought for orders that:-
 1. That the Honourable court be pleased to set aside the judgment entered against the Defendant/Applicant on the 20th December 2023.
 2. That this Honourable court be pleased to issue orders for the cross-examination of the process server, one Jacob Okwemba Malanda.
 3. That the Defendant/Applicant is willing and ready to offer security as shall be ordered by the court.
 4. The Defendant/Applicant be allowed to file its defence and enter appearance out of the prescribed time frame.
 5. That this honourable court be pleased to grant further orders and direction as it may deem fit.
 6. That costs of the application be provided for, directed for cross-examination of the Process Server.
2. The Process Server Jacob Malanda was cross-examined by Mr. Omondi, Advocate for the Respondent. Under cross-exam, the Process Server said that on 18th May 2017, upon receipt of notice of summons, statement of claim, list of witnesses, witness statement and list of documents from the firm of Arati and



Co. Advocates, with instruction to effect service on the Respondent, Nihal Construction Limited, at around 9:00 a.m. he proceeded to 2nd Parklands Avenue off Limuru Road at the Respondent's premises where he met a security guard at the site who denied him entry to the premises. That he argued with the security guard and a lady came later on. That he then left the documents with them. That he had spoken to one Mr. Ravji of telephone no. 0723xxxxxx who told him that their lawyer would handle the matter.

3. The Process Server had in the affidavit of service dated 18th May 2017 deposed that he had arrived at the premises around 11:00 a.m. and had met the secretary to whom he had introduced himself and the purpose of the visit.
4. That the secretary received and acknowledged the copies but refused to sign them.
5. The Process Server was asked why he had not given the information about the security guard in the affidavit of service but was unable to give a satisfactory answer.
6. Even in cross-examination by the Advocate for the Claimant, the Process Server said he did not know if the lady who appeared as he argued with a security guard who had denied him entry to the premises was a secretary. He however reiterates that he had called Mr. Ravji and left the summons at the sight.
7. This evidence by the Process Server is materially different from that he had deposed to in his affidavit of service.
8. Accordingly, the court is not satisfied that the Process Server had effected proper service of summons to enter appearance on the Respondent. Therefore, the application dated 13th March 2025 is allowed and the court grants the following orders.
 - a. The judgment of the court dated 20th December 2023 is set aside.
 - b. The Respondent to file a statement of response to the claim within 21 days and the Claimant to file a reply to the statement of reply within 14 days of service.
 - c. The suit to be heard on date to be set by the court on the date of this ruling.

DATED AT NAIROBI THIS 30TH DAY OF OCTOBER 2025.

MATHEWS NDUMA

JUDGE

Appearance:

Ms. Kerubo for Claimant

Mr. Omondi for Respondent

Mr. Kemboi – Court Assistant

