

**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT  
MALINDI**

**CAUSE NO. E006 OF 2025**

**NGALA HINZANO KARISA**

**RAYMOND KITSAO THOYA**

**VITALIS KINGI GONA**

**DCKSO BARAKA MAPINGA**

**NEWTO KOMBE MTAWAL**

**ERICK CHARO KINGI**

**EMMANUEL MASINDE WANYONYI ..... CLAIMANTS**

**VERSUS**

**MAJLIS MANDA ISLAND RESORT LIMITED**

**THE MAJLIS LAMU LIMITED .....  
RESPONDENTS**

**RULING**

The claimants filed an application dated 17 September 2025, seeking that the suit dismissed for non-attendance on 22 July 2025 be reinstated and heard on its merits.

The application is supported by Ngala Hizaro Karisa, who avers that they filed the claim on 23 April 2025, which was set down for hearing on 4 occasions, but the notices escaped their advocate's attention. The claimants had requested judgment because the respondent did not file a response; however, due to an inadvertent mistake, no one attended when the matter came up for hearing in court on 22 July 2025.

Karisa avers that there will be no prejudice visited against the respondent if the orders sought are issued. They have not responded to the claim.

There is no response from the respondent in this case. No appearance or response filed.

However, on several occasions, the claimants were invited to attend court for a hearing but failed to do so.

The matter was scheduled for a hearing on:

7 July 2025, when the claimants were absent. Notice to show cause was issued.

On 21 July 2025, the court placed the matter for mention on 22 July 2025.

On the due date, the claimants were absent. The matter was dismissed for non-attendance.

The claimants only state that there was an inadvertent mistake by their advocate. The particulars are not given.

Failure to attend court on a date allocated by the court is a serious omission. It goes to the root of the claim and reflects a lack of commitment to pursue a case placed before the court.

However, this is the seat of justice. Each party must be given a fair chance to be heard. The court notes that the respondents have never expressed any interest in the matter. There will be no prejudice to allowing the matter to proceed, albeit on the condition that the claimants shall pay court adjournment fees for each date of non-attendance, all at Ksh. 2,500 x 4 = 10,000, within 14 days from the date hereof. A continued lack of commitment to prosecute the matter will not be tolerated.

**Accordingly, the suit is reinstated on condition that the claimants shall pay the court fee of KSh. 10,000 within 14 days. Take a hearing date within the next 14 days; failure to which, the suit shall stand dismissed as of 22 December 2025.**

Delivered in open court at Malindi, this 11<sup>th</sup> day of December 2025.

M. MBARŪ  
JUDGE

In the presence of:

Court Assistant: Davis Wekesa

..... and .....