



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: OKWENGU, JA (IN CHAMBERS))**

**CIVIL APPLICATION NO. 372 OF 2019**

**BETWEEN**

**THE REGISTERED TRUSTEES OF PRESBYTERIAN**

**UNIVERSITY OF EAST AFRICA.....APPLICANT**

**AND**

**PAUL MUNGAI MBUGUA.....RESPONDENT**

*(Being an Application for extension of time to file a Notice of Appeal out of time from the Judgment and Decree of the Employment and Labour Relations Court at Nairobi (Wasilwa, J) dated 19th September 2019 in Cause No. 1527 of 2015)*

**RULING**

[1] On 19th September 2019, the applicant filed an application for contempt proceedings seeking to cite the respondent, his advocate and auctioneers for contempt of court orders. **Hellen Wasilwa, J** proceeded to find that the respondent as the decree holder and the auctioneers were in contempt of the court orders and proceeded to cite them for contempt. The Judge however failed to cite the counsel for the respondent for contempt.

[2] The applicants who were aggrieved that the Judge failed to find counsel for the respondent to be in contempt, intended to challenge the judgment but was late in filing their notice of appeal. They therefore filed an application dated 28th November 2019 for extension of time to enable them file the notice of appeal. That application was listed before me on 2nd July 2020 for hearing by way of written submissions as a single Judge. However, despite hearing notices having been served on the parties, no response had been filed by the respondent, nor did any of the parties file written submissions as directed by the Court.

[3] I reserved the matter for ruling on 7th August 2020. On 12th July a consent letter dated 6th July 2020 signed by each party's advocate was brought to my attention by the Deputy Registrar of the Court. The letter confirms that the parties have agreed to have both the intended appeal and the application for extension of time marked as settled. In the circumstances, it being apparent that the applicant no longer wishes to pursue the notice of motion dated 28th November 2019, I adopt the consent and mark the applicant's said notice of motion as withdrawn under Rule 52 of the Court Rules, subject to the respondent paying costs of Kshs 5,000 awarded on 2nd March 2020. It is so ordered.

**Dated and delivered at Nairobi this 7th day of August, 2020.**

**HANNAH OKWENGU**

**JUDGE OF APPEAL**

*I certify that this is a true copy of the original.*

*Signed*

**DEPUTY REGISTRAR**