



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

CORAM: NAMBUYE, KARANJA & M'INOTI, J.J.A.

CIVIL APPEAL NO. 141 OF 2017

BETWEEN

MOSES SEGITE.....APPELLANT

AND

KENYA FLUORSPAR COMPANY LTD.....RESPONDENT

(Appeal from the Judgment and Decree of the Employment and Labour Relations Court

at Eldoret (Radido, J.) dated 29th September 2017 in ELD. ELRC Appeal No. 2 of 2017)

RULING OF THE COURT

We heard this appeal on 14th July 2020 and reserved judgment for 6th November 2020. On 22nd October 2020, the appellant filed a Motion on Notice seeking stay of delivery of the judgment, on the ground that the parties had agreed to compromise the appeal on agreed terms. In the premises, he averred that it was not necessary for the Court to deliver the judgment.

Because of that application, the judgment was not delivered on 6th November as scheduled.

Upon being served with the application for stay of judgment, the respondent, however, opposed the same and denied having agreed to compromise the appeal. In paragraphs 20 and 24 of its replying affidavit, the respondent averred as follows:

“20. That there has never been any communication between the purported caretaker, one Kibor Some Sameoi, who has sworn an affidavit herein in support of the application and our office over the matter herein.”

24. That the purported willingness to settle this matter without awaiting the judgment is therefore a misconception based on fraud.”

It is crystal clear to us that the parties have not reached any agreement to compromise the appeal. In the premises, the Motion dated 22nd October 2020 has no merit and is hereby dismissed with costs to the respondent.

Judgment in the appeal shall now be delivered on 19th February 2021. It is so ordered.

Dated and delivered at Nairobi this 4th day of December, 2020.

R. N. NAMBUYE

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JUDGE OF APPEAL

W. KARANJA

.....

JUDGE OF APPEAL

K. M'INOTI

.....

JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR