



REPUBLIC OF KENYA



KENYA LAW
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**Bett v Lavington Security Limited (Cause 398 of 2018)
[2025] KEELRC 41 (KLR) (23 January 2025) (Ruling)**

Neutral citation: [2025] KEELRC 41 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 398 OF 2018
S RADIDO, J
JANUARY 23, 2025**

BETWEEN

MIKE KIPLANGAT BETT CLAIMANT

AND

LAVINGTON SECURITY LIMITED RESPONDENT

RULING

1. In a judgment delivered on 9 November 2023, the Court found that Lavington Security Ltd (the Respondent) had unfairly terminated the employment of Mike Kiplangat Bett (the Claimant).
2. On 15 October 2024, the Respondent filed a Motion seeking orders:
 - i. ...
 - ii. ...
 - iii. That execution of the ex-parte judgment delivered on the 9th November 2023, decree and Certificate of Costs with the warrants of attachment issued on 1st October 2024 together with all consequential orders arising therefrom be set aside.
 - iv. That the Respondent/applicant be granted unconditional leave to canvas and or defend the Claim herein.
 - v. That the costs of this application be provided for.
3. The primary grounds in support of the Motion were that the Respondent only learnt of the Cause when served with warrants of attachment; Summons had not been served; the Respondent had an arguable defence and that the Respondent was ready to abide by any conditions set by the Court.



4. When the Motion was placed before the Court at the ex-parte stage, it granted an interim stay on condition that the decretal sum is deposited into the Court before the end of 18 October 2024 (the Respondent complied with the condition).
5. The Claimant filed a replying affidavit in opposition to the Motion on 22 October 2024. He deponed that service of Summons had been effected and acknowledged; the Motion had been presented by a stranger and that he was entitled to the fruits of the judgment.
6. On 29 October 2024, the Court directed the parties to file and exchange submissions.
7. The Respondent filed its submissions on 6 November 2024, and the Claimant's submissions were not on record by the agreed timeline of 6 December 2024.
8. In its submissions, the Respondent cited *Philip Kiptoo Chemwolo & Mumias Sugar Co Ltd v Augustine Kubende* (1986) eKLR and High Court Civil Case No. 241 of 1998 (UR), *Fidelity Commercial Bank Ltd v Owen Amos Ndungu & Ar* to contend that the Court had unlimited discretion to set aside an irregular judgment.
9. The Court has considered the Motion, affidavits and submissions and come to the view that the Motion is without merit for the following reasons.
10. First, the record shows that the Respondent was served and acknowledged service of Summons and Statement of Claim on 7 September 2018, by stamping on copies which were returned to the Court.
11. The judgment is thus regular and not irregular as suggested by the Respondent.
12. Secondly, the Respondent has not demonstrated the arguable defence it purported to have either through the supporting affidavit or a draft Response.

Orders

13. The Motion dated 11 October 2024 is found without merit and is dismissed with no order on costs since the Claimant did not file submissions as directed.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 23RD DAY OF JANUARY 2025.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimant Odera Olonde & Co. Advocates

For Respondent Kiptoon & Co. Advocates

Court Assistant Wangu

