



REPUBLIC OF KENYA



**KENYA LAW**  
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**Kingori v Plastic Electronics Limited (Cause E126 of 2023)  
[2025] KEELRC 608 (KLR) (28 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 608 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E126 OF 2023  
AK NZEI, J  
FEBRUARY 28, 2025**

**BETWEEN**

**JOEL MUCHANGI KINGORI ..... CLAIMANT**

**AND**

**PLASTIC ELECTRONICS LIMITED ..... RESPONDENT**

**RULING**

1. The suit herein was instituted by the Claimant vide a Statement of Claim dated 16<sup>th</sup> February, 2023 and filed in this Court on 17<sup>th</sup> February, 2023. The Respondent entered appearance and filed Response to the Claimant's claim, and a list and bundle of documents on 9<sup>th</sup> February, 2024. Thereafter, everything on the suit went silent. The Claimant is not shown to have taken any step towards setting the suit down for hearing.
2. On 2<sup>nd</sup> January, 2025, this Court's Deputy Registrar sent out a notice to the Claimant, calling upon him to show cause why the suit herein could not be dismissed for want of prosecution.
3. Rule 43 of the Employment and Labour Relations Court (Procedure) Rules 2024 provides as follows:-
  - “(1) In any suit in which no application has been made in accordance with Rule 31 or no action has been taken by either party within one year from the date of its filing, the Court may give notice in writing to the parties to show cause why the suit should not be dismissed and, if no cause is shown to its satisfaction, may dismiss the suit.
  - (2) If reasonable cause is given to the satisfaction of the Court, it may make such orders as it thinks fit to obtain the expeditious hearing and determination of the suit.
  - (3) Any party to the suit may apply for dismissal as provided in sub-rule (1).



(4) The Court may dismiss the suit for non-compliance with any direction given under this rule or rule 31.”

4. When the suit came up in Court on 29<sup>th</sup> January, 2025 for the parties to show cause, I directed the Claimant to file an affidavit within 14 days of the said date showing cause why the suit could not be dismissed for want of prosecution, failing which the suit would stand dismissed for want of prosecution.
5. Vide an affidavit sworn on 6<sup>th</sup> February, 2025 and filed herein, the Claimant explained that after the Respondent entered appearance and filed a Statement of Response on 16<sup>th</sup> February, 2024, the Claimant was informed that the matter would first go for pre-trial [conference], and that there were no dates available in the year 2024. That failure to set the suit down for hearing was as a result of an Advocate’s mistake, which should not be visited on the Claimant. The Claimant has not, however, told the Court what effort he made between February 2023 when the suit was filed and January 2025 when the notice to show cause was issued, to follow up on the suit herein with his Advocates on record and to ensure that the same was fast-tracked and fixed for hearing. A litigant who files a suit and goes to sleep, only waking when a notice to show cause why the suit should not be dismissed is issued, cannot be heard to plead “Mistake of an Advocate”. Both the litigant and his Advocate would stand blamed for non-prosecution of the suit.
6. The Judiciary has, over the years, been relentlessly accused of failure to hear and to dispose of matters filed in the Courts. A time must come when litigants who have clearly been indolent, and Advocates who represent them in such Court matters, bear and/or share in the blame for non-prosecution of cases and the resultant build-up of backlog of cases in our Courts.
7. I will, nevertheless, exercise the Court’s discretion in favour of the Claimant. I make the following Orders:-
  - a. The Claimant shall prosecute the suit herein within 12 months of today, failing which the same shall stand dismissed for want of prosecution.
  - b. Pre-trial directions shall be taken on 24<sup>th</sup> April, 2025.
  - c. An appropriate Notice shall be served by the Claimant on the Respondent, and an affidavit of service shall be filed.
8. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28<sup>TH</sup> DAY OF FEBRUARY 2025**

**AGNES KITIKU NZEI**

**JUDGE**

**ORDER**

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

**AGNES KITIKU NZEI**

**JUDGE**

Appearance:

Mr. Olonde for the Claimant



No appearance for the Respondent

