



REPUBLIC OF KENYA



**Manpower Networks Limited v Charo (Appeal E072 of 2024)
[2025] KEELRC 335 (KLR) (12 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 335 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
APPEAL E072 OF 2024
K OCHARO, J
FEBRUARY 12, 2025**

BETWEEN

MANPOWER NETWORKS LIMITED APPELLANT

AND

SAMUEL GARAMA CHARO RESPONDENT

*(Being an appeal from the judgment of Hon. R.N. Akee SRM in Mombasa
ELRC NO. E464/2022 delivered on the 25th day of March 2024)*

RULING

1. By a straightforward amended Notice of Motion dated 9th February 2025, the Respondent sought: -
 - a. That this Hon. Court be pleased to enlarge time and grant leave to the Applicant to file and serve a supplementary Record of Appeal.
 - b. That the supplementary Record of Appeal dated 26th November 2024 and filed on 27th November 2024 be deemed as properly filed and on record.
 - c. That this Honourable Court does grant any further orders as it deems necessary in the circumstances.
 - d. Costs of the application be provided for.
2. The application is anchored on the prime grounds that: -
 - a. The Appellant's Advocate omitted to include in the record of appeal dated 23rd July 2024, the Respondent's complete set of further documents that were filed before the lower Court under a list of documents dated 1st March 2023.



- b. Under Procedure Rules, the documents were supposed to be embodied in the record of appeal, thus, they must be allowed to be onboarded to these proceedings.
 - c. The Appellant will not suffer any prejudice if the orders sought are granted.
3. The Appellant opposed the application through an affidavit sworn by its Counsel on 27th December 2024, on the principal grounds: -
 - a. The Appellant included in the record of appeal all the documents that had been placed before the lower Court, inclusive of those that had been filed under the Respondent/Applicant's list of documents dated 1st March 2024.
 - b. The documents that were listed in the document stated above were only;
 - i. A letter to the Director of Criminal Investigations requesting a forensic examination of documents, dated 9th September 2022.
 - ii. Government forensic Document Examiner's report dated 11th October 2022.
 - c. The two are the only documents that were served on Counsel for the Appellant, following the filing of the further list of documents.
 - d. The documents -the specimen of the signatures that were forwarded to the Document Examiner for comparison purposes, that the Respondent wants included in the record of appeal, were neither filed before the lower Court nor relied on in support of the case.

Determination

4. Inarguably, a record of appeal must embody:
 - a. The pleadings that were filed before the trial Court by the parties.
 - b. Typed proceedings of the lower Court
 - c. All the documents that were tendered before the trial Court as exhibits.
 - d. The typed Judgment of the Trial Court.
 - e. Extracted decree of the Trial Court.
5. The gravamen of the Appellant's opposition to the instant application is that the documents that the Respondent seeks to onboard into this appeal were not exhibits before the Trial Court.
6. I have carefully considered the typed proceedings of the Lower Court, and I am not persuaded that the argument by the Appellant is correct. Witness, 1. E.J. Mwangi testified before the Learned Trial Magistrate on 20th July 2023. He stated that they received exhibit[b] which contained signatures on pages 8,11,12, 13 and 14. I have no doubt in my mind, that the signatures referred to were the specimen signatures that were sent to them for examination and analysis.
7. By reason of the foregoing premise, I have no hesitation in concluding that the document[s], containing the signatures ought to have been part of the record of appeal. As it was excluded, I hereby directed that it be, but through a record of appeal.
8. In the upshot, the Respondent's Amended Notice of Motion is allowed. The Respondent is given leave of 7 days to file a well-paginated supplementary record of appeal incorporating the documents that were left out when the Appellant prepared and filed the record of appeal.



9. Orders accordingly.

DATED, SIGNED AND DELIVERED THIS 12TH DAY OF FEBRUARY 2025

OCHARO KEBIRA

JUDGE

