Chiro v County Government of Mombasa ((Department of Health Services, Coast General & Referral Hospital)) (Cause E067 of 2024) [2025] KEELRC 1154 (KLR) (24 April 2025) (Ruling)

Neutral citation: [2025] KEELRC 1154 (KLR)

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA

CAUSE E067 OF 2024

M MBARŨ, J

APRIL 24, 2025

BETWEEN

CHIZI CHIGULO CHIRO ..... CLAIMANT

AND

COUNTY GOVERNMENT OF MOMBASA ..... RESPONDENT

(DEPARTMENT OF HEALTH SERVICES, COAST GENERAL & REFERRAL HOSPITAL)

RULING

1. The claimant filed the claim on 16 July 2024 and, at paragraph 3 , admits that Mombasa ELRC Cause No. E077 of 2021 is pending determination on a similar matter to his claim.

2. In reply, the respondent filed the Memorandum of Response dated 3 October 2024 and raised objections that the claim is devoid of merit as a similar suit exists and has since been determined. The admissions that there is the Mombasa ELRC Cause No. E077 of 2021, based on the same issues and relating to he claimant and other persons, is evidence of the matter before *res judicata* and *sub judice*.

3. The claimant has not attended to this matter since the response and the noted objections.

4. The respondent attended and filed written submissions and reiterated that the existence of a similar matter that has since been dismissed for want of prosecution cannot be used by the claimant to file another suit similar to the one dismissed. The act of dismissal addressed the claim with finality.

5. On his admission, the suit herein is similar and over the exact cause of action as Mombasa ELRC Cause No. E077 of 2021, which, under Section 7 of the *Civil Procedure Act*, is res judicata and sub judice. He cannot file another claim, aware that the previous suit was dismissed for want of prosecution.

6. Without showing any interest in prosecuting the instant suit, the respondent's objections to the duplication of suits, the claimant's actions amount to an abuse of the court process, and the suit is hereby dismissed. Costs to the respondent.

DELIVERED IN OPEN COURT AT MOMBASA THIS 24TH DAY OF APRIL 2025.

M. MBARŨ

JUDGE

In the presence of:

Court Assistant: Marion