



**Minayo v Friends Church (Quakers) (Cause 921 of 2017)
[2025] KEELRC 1409 (KLR) (15 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1409 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 921 OF 2017**

**L NDOLO, J
MAY 15, 2025**

BETWEEN

MARY MINAYO CLAIMANT

AND

FRIENDS CHURCH (QUAKERS) RESPONDENT

RULING

1. This ruling determines the Notice of Motion dated 13th December 2024, by which the Respondent seeks dismissal of the Claimant's application dated 17th January 2023, for want of prosecution.
2. The Respondent's Motion is supported by an affidavit sworn by Pastor Moses Adika and is based on the following grounds:
 - a. That the Claimant filed her Notice of Motion dated 17th January 2023 on 18th January 2023 and served the Respondent on 19th January 2023;
 - b. That the Respondent filed its Grounds of Opposition on 15th February 2023 and served the Claimant on the same day;
 - c. That thereafter, the Respondent filed a replying affidavit dated 21st March 2023;
 - d. That since 21st March 2023, the Claimant has not fixed her Notice of Motion for hearing;
 - e. That the onus to set down the Notice of Motion for hearing rests solely on the Claimant;
 - f. That the Claimant's failure has led to non-prosecution of the Motion, to the Respondent's prejudice, as the taxation of its Bill of Costs dated 22nd August 2022 has been unduly delayed.
3. Despite due service, the Claimant did not respond to the Respondent's application.



4. Rule 43 of the *Employment and Labour Relations Court (Procedure) Rules* sets out the following procedure for dismissal of suits for want of prosecution:

43.

- (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 reasonable 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.

5. According to the court record, the Claimant's claim was dismissed for non- attendance and want of prosecution on 10th May 2022.

6. The Claimant subsequently moved the Court by way of Notice of Motion dated 17th January 2023. This Motion was placed before Mbaru J on 18th January 2023, when directions on hearing and disposal were issued.

7. Thereafter, there was no action by the Claimant, prompting the Respondent to file the present application. Additionally, the Claimant chose not to respond to the Respondent's application.

8. In the circumstances, it would appear that the Claimant has lost interest in pursuing this matter any further.

9. The Respondent's application dated 13th December 2024 is therefore allowed, with the consequence that the Claimant's application dated 17th January 2023 is dismissed with an order that each party will bear their own costs.

10. It is so ordered.

DELIVERED VIRTUALLY AT NAIROBI THIS 15TH DAY OF MAY 2025

LINNET NDOLO

JUDGE

Appearance:

No appearance for the Claimant

Mr. Aswani for the Respondent

