



REPUBLIC OF KENYA



KENYA LAW
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**Okudho v SS Mehta and Sons Limited (Cause E055 of 2023)
[2025] KEELRC 1427 (KLR) (13 May 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1427 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
CAUSE E055 OF 2023
NZIOKI WA MAKAU, J
MAY 13, 2025**

BETWEEN

WILLIAM OTIENO OKUDHO CLAIMANT

AND

SS MEHTA AND SONS LIMITED RESPONDENT

RULING

1. Objection is taken to a line of questions put to the witness for Respondents following the Claimant on cross examination a little while ago. It was in relation to documents he had produced in his bundle before court filed pursuant to directions of the court. The Counsel for the Claimant objects to the questions being put to the Respondent's witness Mr. Arif Khan on account of the witness not having filed a further witness statement after the documents were filed. Mr. Oriwa for Claimant asserts the defence witness cannot speak to that issue as he did not advert to such evidence in his testimony before court in form of his written statement. Mr. Oriwa asserts the examination in chief is limited to the testimony recorded in the statement.
2. Mr. Gachau for the Respondent in his reply states the defence witness is for the Respondent and that the Respondent is entitled to rebut the documents filed in March 2025. He asserts that the witness should be permitted to speak to them as the Respondent can rebut these through its witness.
3. Mr. Oriwa in a brief reply submits that we should stick to what is on the statement and that it is only in cross examination that there is latitude and that is open.
4. The objection as understood by the court is to the Respondent's witness testifying on the provenance of documents availed by the Claimant in the bundle produced pursuant to the directions of court made on 20th March 2025. The court gave a ruling on 20th March 2025 to ensure compliance with a ruling by my brother Radido J. which was given on 22nd May 2024. After the bundle was filed, the



matter appeared before me today for hearing. During the hearing and precisely in both examination in chief and cross examination, the Claimant was asked questions about the documents.

5. Mr. William Okudho was asked about these documents and gave the answers comprised in the record of the court. It is on these documents that the defence witness is being asked questions regarding the same documents. Granted the Rules of this court being the Employment and Labour Relations Court (Procedure) Rules, 2024 which came into effect on 16th August 2024, the receipt of such evidence is not barred. The court is mindful that a person can only speak of that which he knows or has direct knowledge of. The Respondent has a witness presented before court and he is the proper party to testify on the documents the Respondent has availed. He can, by way of rebuttal, testify as to his knowledge or otherwise regarding the Respondent's defence. The questions put to the witness has been answered and the court will allow the answer will remain on record and urge Respondent to move on since that area has been covered. His answer as recorded by the court is that the document is not from the Respondent.
6. As the foregoing foreshadows, the Objection is overruled and the testimony adduced on that point by Respondent's witness remains as part of the record. Examination in chief to continue.

Orders accordingly.

DATED AND DELIVERED AT KISUMU THIS 13TH DAY OF MAY 2025

NZIOKI WA MAKAU, MCIARB.

JUDGE

