



Aketch v West Kenya Sugar Company Limited (Employment and Labour Relations Cause E021 of 2023) [2024] KEELRC 336 (KLR) (23 February 2024) (Ruling)

Neutral citation: [2024] KEELRC 336 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KAKAMEGA
EMPLOYMENT AND LABOUR RELATIONS CAUSE E021 OF 2023**

JW KELI, J

FEBRUARY 23, 2024

BETWEEN

DENIS OMONDI AKETCH CLAIMANT

AND

WEST KENYA SUGAR COMPANY LIMITED RESPONDENT

RULING

1. The matter was scheduled for part heard hearing today with the Claimant scheduled to call one Neil Hellings to produce the document marked 'MF1-3'. The Claimant's counsel informed court they were unable to call the witness and requested 'MF1-3' be marked as withdrawn. The court allows the application and marks the document marked as 'MFI-3' as withdrawn.
2. The 2nd application was by the Respondent seeking leave of the Court to file supplementary documents on basis that the version filed earlier was one sided hence incomplete. The Respondent's counsel informed the court that the supplementary list of documents was in possession of the Claimant at all material times. The Respondent sought leave of the Court that the supplementary list of documents dated 20th February 2023 (year 2023 was an error and the record was corrected in court to read 2024) be deemed as filed.
3. The Claimant's counsel in response stated that some of the documents filed in the supplementary list by the Respondent may not have been in her client's list of documents and need time to consult. The Claimant's counsel sought leave of the Court to file the contract document and bills of quantities following the supplementary list of documents served. The counsel further requested for re-opening of the Claimant's case to produce the documents sought to be filed under section 146 (4) of the Evidence Act to wit:-

“(4) The court may in all cases permit a witness to be recalled either for further examination-in-chief or for further cross-examination, and if it does so,



the parties have the right of further cross-examination and re-examination respectively."

4. The court finds the parties are in agreement on the two applications.
5. The Respondent's supplementary list of documents dated 20th February 2023(error in date and corrected to read 2024) and filed on the 22nd February 2024 is deemed as duly filed.
6. The Claimant is granted leave to file the contract and bills of quantities under the subject matter within 7 days of today's order.
7. The Claimant's case is ordered to be re-opened under section 146(4) of the *Evidence Act* (*supra*).
8. The Matter is marked as part-heard and taken out of today's hearing for the foregoing reasons. The parties by consent list the matter for hearing of Claimant's case as re-opened and defence case on the 19th March 2024
9. It is so ordered.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA ON THIS 23RD DAY OF FEBRUARY 2024.

J.W. KELI

JUDGE

In the presence of:-

C/A Lucy Macheso

For Claimant:- Ms. Ngaruiya

For Respondent: Mr. Andiwo

