



**Wahu v South Sioux Farms Limited & another (Cause 2594 of 2016)
[2024] KEELRC 1080 (KLR) (4 March 2024) (Ruling)**

Neutral citation: [2024] KEELRC 1080 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 2594 OF 2016
NZIOKI WA MAKAU, J
MARCH 4, 2024**

BETWEEN

PAUL GICHUHI WAHU CLAIMANT

AND

SOUTH SIOUX FARMS LIMITED 1ST RESPONDENT

OFFICE OF DIRECTOR OF PUBLIC PROSECUTIONS 2ND RESPONDENT

RULING

1. The Application before me is the one by the Respondent seeking for orders:-
 - a. Spent
 - b. That the *ex-parte* judgment entered herein and all consequential orders be set aside and the defendant be granted leave to defend the suit unconditionally.
 - c. That there be a stay of execution of the decree pending the hearing and determination of this application.
 - d. That costs of the application be provided for.
2. The Claimant responded by filing a preliminary objection, to wit, that the application by the Respondents was similar to one dated 23rd August 2023 which had been heard and disallowed by the Court and that the Court herein not being the Court of Appeal, was functus officio. The Respondent's motion does not need to be considered on its merits as it seeks to reopen the matter as was proposed in the motion I disallowed on 26th September 2023. In the premises I decline the application as it is not only unmerited but also *res judicata* as I made my decision on 26th September 2023. Application dismissed with costs to the Claimant.

It is so ordered.



DATED AND DELIVERED AT NAIROBI THIS 4TH DAY OF MARCH 2024

NZIOKI WA MAKAU

JUDGE

