



**Korir v Lawina Company Limited & 2 others (Cause 536 of 2018)
[2024] KEELRC 2415 (KLR) (4 October 2024) (Ruling)**

Neutral citation: [2024] KEELRC 2415 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 536 OF 2018
J RIKA, J
OCTOBER 4, 2024**

BETWEEN

JOSEAH KORIR CLAIMANT

AND

LAWINA COMPANY LIMITED 1ST RESPONDENT

PETER LAGAT 2ND RESPONDENT

JANE CHEPCHUMBA LAGAT 3RD RESPONDENT

RULING

1. LAWINA COMPANY LIMITED
2. PETER LAGAT
3. JANE CHEPCHUMBA LAGAT RESPONDENT

RULING

1. In their application dated 12th April 2023, the Respondents pray for two main orders: -
 - I. The document titled “ Claimant’s Job/Company ID” appearing at page 18 of the Claimant’s documents, be struck out from the Court’s record.
 - II. The document titled “Claimant’s Job/ Company ID” appearing at page 18 of the Claimant’s documents, be declared as inadmissible in these proceedings.
2. The grounds in support of the application are set out in the affidavit sworn by the 2nd Respondent, a Director or the 1st Respondent, Peter Lagat.
3. He states that the Respondents were unaware about the document, until they saw it in the bundle filed by the Claimant.



4. They did not issue the document to the Claimant.
5. They filed a complaint at the Kilimani Police Station, upon receiving the document. Their complaint, was that the document was forged. The document is foreign to the Respondents. The Claimant was a casual Employee, and the Respondents state, they have never issued a Job ID card to any Employee.
6. The application is opposed through grounds dated 18th April 2023, and a replying affidavit sworn by the Claimant on the same date.
7. His position is that the application is unmerited. The validity of the document sought to be expunged, is a matter of evidence. It can be dealt with through the trial. The application is diversionary, and report concerning the document made to the Police, is meant to intimidate the Claimant.
8. He states that the Job ID card was issued to him by the Respondents, during the 2007/2008 post-election violence, for ease of movement to and from work. He denies that he was a casual Employee, having worked for 11 years for the Respondents. He states that he would be calling as his witness, his then Advocate Julie Soweto, who was a tenant at Lenana Court, the premises the Claimant was assigned to guard by the Respondents.
9. The application was last mentioned before the Court on 20th September 2024, when the Parties confirmed filing and exchange of their submissions.

The Court Finds: -

10. The circumstances under which the Job ID card exhibited by the Claimant issued, is a triable issue.
11. Whether it is a forgery; whether a report of forgery was made to the Police; whether the Claimant was prosecuted; and forgery established, are all matters to be taken up by the Parties upon the hearing of the dispute.
12. A report to the Police and bare allegations by the Respondents that the document is forged, does not justify expungement of the document from the record.
13. The Court shall upon hearing the evidence from the Parties, determine if it should rely on the document; whether it should attach any weight to the document; or discard the document altogether.
14. There is no merit to the Respondents' application. They should wait for the trial, and persuade the Court through evidence, how they wish the document to be treated by the Court. It is imprudent, and not in the interest of justice, to have the document rejected without giving the Parties the benefit of giving evidence before the Court, on the validity of the document. The document is intended to be used as evidence, alongside other oral evidence, including that of the Claimant and his proposed witness, Julie Soweto, an Officer of the Court and a former tenant of the Respondents. The Parties should be allowed to present their documentary and oral evidence unhindered.

It Is Ordered: -

- a. The application dated 12th April 2023 filed by the Respondents is declined.
- b. Costs in the cause.

Dated, signed and released to the Parties electronically at Nairobi, under Practice Direction 6[2] of the Electronic Case Management Practice Directions, 2020, this 4th day of October 2024.

James Rika

Judge

