



**Sike v Charleston Travel Ltd (Cause 1158 of 2018)
[2024] KEELRC 13467 (KLR) (19 December 2024) (Ruling)**

Neutral citation: [2024] KEELRC 13467 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1158 OF 2018
S RADIDO, J
DECEMBER 19, 2024**

BETWEEN

FREDRICK OJUMA SIKE CLAIMANT

AND

CHARLESTON TRAVEL LTD RESPONDENT

RULING

1. On 12 June 2019, the Court directed the parties to file Agreed Issues before 28 June 2019, and thereafter take a hearing date for the Cause in the registry.
2. When the parties next appeared in Court on 7 June 2022, the Court fixed the Cause for hearing on 10 November 2022. The Court also directed the Claimant to file a Reply to the Response within 14 days.
3. The Court did not sit on 10 November 2022, and mention was scheduled for 20 December 2022. On 20 December 2022, the Claimant asked for more time to file a Reply to the Response.
4. By 1 February 2023, the Claimant had not complied and he requested for more time. The request was allowed by the Deputy Registrar.
5. When the Cause was next mentioned on 20 March 2023, the Claimant still asked for more time. There was no compliance by 22 May 2023. On 18 October 2023, the Claimant informed the Court that he was ready for hearing.
6. On 30 January 2024, the Claimant applied for leave to file another statement. The Court granted the leave and directed that the statement be filed within 14 days before fixing a hearing date.
7. Thereafter, the Claimant did not take any steps to prosecute the Cause and the Court issued a Notice to Show Cause dated 4 April 2024, with a return date of 3 June 2024.



8. The Claimant did not attend the Court on 3 June 2024 but the Respondent was present. The Court dismissed the Cause and this prompted the Claimant to file a Motion dated 14 June 2024, seeking the reinstatement of the Cause. This is the subject of this Ruling.
9. The main grounds in support of the Motion are that the Notice to Show Cause was first listed for 23 April 2024 but the Court did not sit and was rescheduled to 3 June 2024; that the advocate was not admitted into the Virtual Court on 3 June 2024 and contacted a Court Administrator who promised assistance but she later learnt that the Cause had been dismissed.
10. The Respondent filed a replying affidavit on 27 November 2024 (should have been filed and served on or before 23 October 2024).
11. The Claimant did not file his submissions as directed (should have been filed and served on or before 8 November 2024). The Respondent filed its submissions on 4 December 2024.
12. In its submissions, the Respondent asserted that there had been prolonged and inexcusable delay in moving the Court and further that since the cause of action accrued more than 7 years ago, it would not be possible to ascertain all the facts.
13. The Court has considered the Motion, affidavits and submissions.
14. As set out at the beginning of the Ruling, the record shows an indolent and casual Claimant. The Claimant sought and got leave to file a Reply to the Response as part of the pre-trial more than once but he did not abide by the directions by the Court.
15. The Court had also directed the parties to file Agreed Issues. There is absolutely nothing on record to suggest that the Claimant sent to the Respondent Proposed Issues or that the Respondent failed to respond to the proposed Issues.
16. Even at the time the Claimant was prompting the Court for a hearing date, he had not complied with express Court directions.
17. With respect to the events of 3 June 2024, it is in the public domain that at that particular point time, parties did not need to be admitted to the virtual Court like previously. The virtual system is now configured in such a way that once a party enters the requisite credentials, they are automatically logged into the Court.
18. The conduct of the Claimant in prosecuting his Cause was wanting. He did not even comply with this Court's directions to file and serve submissions.
19. The Claimant has not satisfied the Court that there are reasonable or justifiable cause to exercise its discretion in his favour.

Orders

20. The Motion dated 14 June 2024 is dismissed with costs.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 19TH DAY OF DECEMBER 2024.

RADIDO STEPHEN, MCIARB

JUDGE

Appearances



For Claimant S.M. Kitonga & Co Advocates
For Respondent Nyaanga & Mugisha Advocates
Court Assistant Wangu

