



**Fikiri v Kemyn Industries Ltd (Cause 618 of 2015)
[2023] KEELRC 158 (KLR) (26 January 2023) (Ruling)**

Neutral citation: [2023] KEELRC 158 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 618 OF 2015
AK NZEI, J
JANUARY 26, 2023**

BETWEEN

JARED FIKIRI CLAIMANT

AND

KEMYN INDUSTRIES LTD RESPONDENT

(Originating from case No 2210 of 2006 Mombasa)

RULING

1. The application before me is the claimant's notice of motion dated November 9, 2022. The claimant seeks the following orders:-
 - a. That the claimant/applicant be allowed to produce certified copies of the documents listed on the claimant's list of documents which had been marked as the plaintiff's exhibit No 1 to 6 in the lower court case No 2210 of 2006 Mombasa, which documents the claimant wishes to rely on during trial.
 - b. That the certified copies of documents be admitted in evidence.
 - c. That cost of the application be in the cause.
2. The application is supported by the claimant's affidavit sworn on November 9, 2022 and filed with the application. It is deponed in the said affidavit:-
 - a. That the suit herein was first filed in the lower court as Mombasa SRMCC No 2210 of 2006, and was heard *ex-parte* before that court and an *ex-parte* judgment was delivered.
 - b. That the lower court's *ex-parte* judgment was subsequently set aside pursuant to an application in that regard by the respondent.



- c. That the claimant produced his original evidential documents in the lower court during the *ex-parte* trial before that court.
 - d. That the lower court suit was transferred to this court after the setting aside of the *ex-parte* judgment.
 - e. That on 27/9/2022, the claimant/applicant orally applied to be allowed to retrieve from the court's record the original documents which he had produced in the lower court and that his application was allowed.
 - f. That the claimant's requests and attempts to retrieve the said documents have not succeeded as the same appear to be missing from the court file; hence the prayer to be allowed to produce certified copies of the said documents in evidence.
3. The application is not opposed as the respondent has not filed any response thereto, despite being shown to have been served with the application and a hearing notice thereon.
 4. Having considered the depositions made in the claimant's supporting affidavit, I allow the unopposed application in the following terms:-
 - a. The claimant is allowed to produce certified copies of the documents listed on the filed list of documents during trial.
 - b. The claimant shall file and serve a fresh list and bundle of certified copies of the said documents within seven (7) days of this ruling.
 5. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 26TH DAY OF JANUARY 2023

AGNES KITIKU NZEI

JUDGE

ORDER

In view of restrictions on physical Court operations occasioned by the COVID-19 Pandemic, this Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

M/s Chereno for Claimant

N/A Respondent

