



Kichakuri v Kenya Suitcases Manufacturers (Cause 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260 & 261 of 2016 (Consolidated)) [2023] KEELRC 479 (KLR) (23 February 2023) (Judgment)

Neutral citation: [2023] KEELRC 479 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260 & 261 OF 2016 (CONSOLIDATED)

AK NZEI, J

FEBRUARY 23, 2023

BETWEEN

SIPHIRA KICHAKURI CLAIMANT

AND

KENYA SUITCASES MANUFACTURERS RESPONDENT

JUDGMENT

1. The suit herein is shown to have been filed in this Court’s Registry on March 24, 2016. According to the Court’s record, the suit was, on September 8, 2016 “consolidated with Cause numbers 867 -887 and 247-261”. The suit herein (No 247 of 2016) was ordered to be the lead file.
2. The suit herein (Cause No 247 of 2016) proceeded for hearing and the Claimant, Siphira Kichakuri, testified and was cross-examined and re-examined. Likewise, the Respondent’s witness testified and was cross-examined and re-examined. Thereafter, both parties filed written submissions and a date for delivery of the Court’s judgment was reserved.
3. During judgment writing, I noted that the Claimant’s undated statement of claim filed in Court on March 24, 2016 was not signed. Rule 6 of the [Employment and Labour Relations Court \(Procedure\) Rules 2016](#) provides as follows:-

“where a claim is referred to the Court in accordance with the provisions of any written law other than [Labour Relations Act](#) under Rule 5, the Statement of Claim shall:-

- a. Be signed by the claimant or the advocate of that claimant; or
- b. If the claimant is a body corporate, be signed by an authorized officer of the body corporate or its advocate ”



4. The foregoing Rule is couched in mandatory terms, and as such for any statement of claim to be valid, it must be signed by either the claimant himself/herself or by the claimant's advocate, where the claimant is represented by Counsel. Signing of pleadings is not a procedural technicality that can be wished away and/or overlooked by a Court of law. It is a matter that goes to the validity and legality of the suit.
5. In the present suit, the claimant is represented by Counsel. The undated statement of claim is not signed at all. It is, therefore, not valid, and cannot be called a pleading. The suit herein is not a valid suit, and was never one. It is a suit that never was. The same is hereby struck off with no orders as to costs.
6. This Court's Cause Nos. 248 of 2016, 249 of 2016, 250 of 2016, 251 of 2016, 252 of 2016, 253 of 2016, 254 of 2016, 255 of 2016, 256 of 2016, 257 of 2016, 258 of 2016, 259 of 2016, 260 of 2016 and 261 of 2016; which are part of the suits shown to have been consolidated with the suit herein, were brought up to me during judgment writing. The undated statements of claim in all those suits, filed on March 24, 2016 by the Law Firm of Koech & Associates, are not signed. The said unsigned statements of claim have no validity in law, they are incompetent and each one of them is hereby struck off with no order as to costs.
7. It is quite amazing that the incompetent suits have remained in the Court's system for close to seven years without the illegality being noted. Some level of keenness, alertness to duty and detail is expected of the Court's Registry Staff as every document that is brought to Court for filing lands in their hands or on their desks first. They have a duty to check such documents for legal basics like whether or not the documents/pleadings are signed. If a pleading is not signed, then it is an illegality and should never be accepted in the Court's Registries in the first place. That way, judicial time and other resources will be applied towards hearing and determination of valid suits.
8. Enough said on the issue.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 23RD FEBRUARY 2023

AGNES KITIKU NZEI

JUDGE

ORDER

In view of restrictions on physical Court operations occasioned by the COVID-19 Pandemic, this Judgment 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:

.....for Claimant

..... for Respondent

