



REPUBLIC OF KENYA



Mangeni v Mayur (Cause 1911 of 2013) [2023] KEELRC 291 (KLR) (9 February 2023) (Ruling)

Neutral citation: [2023] KEELRC 291 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1911 OF 2013
L NDOLO, J
FEBRUARY 9, 2023**

BETWEEN

MARY AKUKU MANGENI CLAIMANT

AND

MRS ASIFINA MAYUR RESPONDENT

RULING

1. What falls for determination is the Respondent's Notice of Motion application dated June 16, 2020 seeking dismissal of the Claimant's claim for want of prosecution.
2. The application is supported by an affidavit sworn by the Respondent's Counsel, Sylvia Malemba Kitonga and is based on the following grounds:
 - a. The claim was filed on November 29, 2013 and the Respondent entered appearance on January 14, 2014 and thereafter filed a defence on 2nd April 2014;
 - b. The Claimant invited the Respondent on January 23, 2015, to take a convenient hearing date but the file was not found;
 - c. The Claimant issued the Respondent with a hearing notice dated February 12, 2015 indicating that the matter was coming up for hearing on March 23, 2015 but the hearing notice was received under protest because the date was not taken by mutual consent and the Advocate concerned had two other matters on that day;
 - d. The matter was not listed on March 23, 2015 even though the Respondent's Advocate was bereaved and if the matter had been listed it would not have proceeded;
 - e. Following invitation by the Respondent by letter dated November 9, 2015, the parties fixed the matter for hearing on February 29, 2016 but it did not proceed;
 - f. Since then, the Claimant has not taken any step to prosecute the matter;



