



**Musya v Multiple Hauliers (EA) Limited (Miscellaneous Application E201 of 2022) [2023] KEELRC 756 (KLR) (24 March 2023) (Ruling)**

Neutral citation: [2023] KEELRC 756 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
MISCELLANEOUS APPLICATION E201 OF 2022**

**J RIKA, J**

**MARCH 24, 2023**

**BETWEEN**

**KIEMA MUSYA ..... CLAIMANT**

**AND**

**MULTIPLE HAULIERS (EA) LIMITED ..... RESPONDENT**

**RULING**

1. The Applicant seeks through his Application dated November 30, 2022, for adoption of an assessment of the Chief Occupational Health and Safety Officer, dated July 19, 2018, as an order of the Court.
2. The assessment amounts to Kshs 791,460.81. The Applicant was, according to his Supporting Affidavit, injured on July 19, 2018.
3. The Respondent filed a Notice of Preliminary Objection dated January 12, 2023, which states that the Court only has an appellate jurisdiction under Section 52 (2) of the *Work Injury Benefits Act*, Cap 236 the Laws of Kenya.
4. It was agreed by the Parties that the Preliminary Objections is considered and determined on the strength of the record. Parties confirmed filing and exchange of Submissions, on February 21, 2023 when they last appeared before the Court.

**The Court Finds \_\_\_: -**

5. The Applicant cannot have been injured at work on July 19, 2018, and obtained an award from the Chief Occupational Health and Safety Officer on the same date, as pleaded.
6. He correctly states at paragraph 8 of his Affidavit, that the *Work Injury Benefits Act*, does not provide a mechanism for enforcement of awards of the Director of Occupational Safety and Health Services, in event an Employer declined to pay out the award.



7. Why then does the Applicant ask the Court to enforce his award, if there is no law, empowering the Court to do so? The Applicant is inviting the Court to exercise judicial craft and innovation, which is contrary to the constitutive law to which this Court is subject, and against the Constitution of Kenya.
8. It is correct as stated in the Notice of Preliminary Objection, that the Court only has an appellate jurisdiction under Section 52(2) of the Work Injury Benefits Act. It does not have jurisdiction to enforce awards of the Director.

**It Is Ordered : -**

- a. The Preliminary Objection is sustained.
- b. The Applications is struck out, with no order on the costs.
- c. This file is closed.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI,  
UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 24<sup>TH</sup>  
DAY OF MARCH 2023**

**JAMES RIKA**

**JUDGE**

