



**Yamo v Kenya Rural Roads Authority (Cause E808 of 2021)  
[2023] KEELRC 1422 (KLR) (17 May 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1422 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E808 OF 2021  
NZIOKI WA MAKAU, J  
MAY 17, 2023**

**BETWEEN**

**JUDITH ADHIAMBO YAMO ..... CLAIMANT**

**AND**

**KENYA RURAL ROADS AUTHORITY ..... RESPONDENT**

**RULING**

1. Objection is taken to the line of questions by the Claimant’s Counsel. It is stated that the Affidavit referred to was part of application that was heard and determined and therefore not part of what the Respondent is relying on its defence. Mr Mulili thus urges the Court to disallow the question.
2. The Claimant is of a different opinion and asserts through Counsel that facts remain facts. Miss Kimani states that the clause is what led to the non-renewal of the contract and relates to the matter at hand.
3. The Court heard Mr Mulili in his reply to state that he does not understand how documents that were used for an application heard and determined by the court can be relied on in the main suit. He asserts that he does not see how there is reliance to be placed on the document yet the Respondent has stated what it will rely on for its defence.
4. Parties in any dispute before the court place material before the court that can be relied on for purposes of determining the dispute. The Respondent has placed before the court certain documents it seeks to rely on for its defence and as such regurgitating the motion that was heard and determined does not bode well as it will be akin to relitigating an issue before the same court. As the court is being invited to look into material that was subject of a different process that was concluded, the Court will decline to do so and this upholds the objection taken by the Respondent. Case to proceed with this in mind.

So ordered.

**DATED AND DELIVERED AT NAIROBI THIS 17<sup>TH</sup> DAY OF MAY 2023**



**Nzioki wa Makau**

**JUDGE**

