



**Kenya Shipping Clearing Freight Logistics & Warehouses Workers Union  
v Wilham (K) Ltd & another (Employment and Labour Relations Cause  
E1074 of 2021) [2023] KEELRC 1599 (KLR) (30 June 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1599 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
EMPLOYMENT AND LABOUR RELATIONS CAUSE E1074 OF 2021  
AN MWAURE, J  
JUNE 30, 2023**

**BETWEEN**

**KENYA SHIPPING CLEARING FREIGHT LOGISTICS & WAREHOUSES  
WORKERS UNION ..... CLAIMANT**

**AND**

**WILHAM (K) LTD ..... 1<sup>ST</sup> RESPONDENT**

**EAST AFRICAN GROWERS LTD ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The claimant union is representing the employees of the company and meanwhile the respondents who are sister companies declared therein employees redundant apparently with the aim to employ new employees.
2. A joint meeting arbitrated by a conciliator took place on March 25, 2021 and the claimants were aggrieved by the said decision. They seek to have the dispute heard on its merits. The same will be heard on July 31, 2023.
3. Hence the claimant has applied for leave to amend the claim on the tabulation of the redundancy payments. They also apply to substitute the witness statements.
4. The case is fairly old having been filed in 2021 and yet the law allows parties to be given leave to amend the pleadings with the leave of the court. Section 14(10) of the *Employment and Labour Relations Court (Procedure Rule) 2016* provide that after close of pleadings, the court may allow filing of a supplementary bundle of documents.
5. It is only fair to allow the necessary tabulation of the redundancy expenses be filed for justice to be sighted from all angles. The claimant is given 14 days leave from today’s date to amend the claim and



to file the witness statements. The response is not in court file. The respondent to provide hard copies of their response in court by July 4, 2023. If respondent wishes to make any other response after the union files the tabulations they may do so 7 days after service. In any event hearing of the main suit will still proceed on July 31, 2023.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 30<sup>TH</sup> DAY OF JUNE 2023.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

**ANNA NGIBUINI MWAURE**

**JUDGE**

