



REPUBLIC OF KENYA



**KENYA LAW**  
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**Shine It Limited v Mwero (Appeal E033 of 2021)  
[2023] KEELRC 3143 (KLR) (30 November 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3143 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
APPEAL E033 OF 2021  
AK NZEI, J  
NOVEMBER 30, 2023**

**BETWEEN**

**SHINE IT LIMITED ..... APPELLANT**

**AND**

**KOMBO PIRU MWERO ..... RESPONDENT**

*(Being an Appeal from the Ruling of Hon. S. Lesootia SRM at  
Mombasa delivered on 12th may, 2021 in Msa ELRC 366/2019)*

**RULING**

1. The appeal herein is before me for writing of a Ruling. The record before me is not clear on what I am supposed to rule on. I say so because upon filing a memorandum of appeal on 9<sup>th</sup> June 2021, the Appellant appears to have lost interest in the matter as no record of appeal was filed. Indeed, the memorandum of appeal was filed without the documents referred to in rule 8(4) of the [Employment and Labour Relations Court \(Procedure\) Rules](#) 2016.
2. There is on record an affidavit sworn by Wafula Wanjala Advocate sworn on 14<sup>th</sup> March 2023. The deponent of the said affidavit appears to be trying to show cause why the appeal should not be dismissed for want of prosecution. It is deponed as follows at paragraph 16 of the affidavit:-  
  
“That the Appellant has not deliberately failed to prosecute the appeal herein, but the delay, which is explainable, has been occasioned by the slow pace at the Court’s Registry’s Typing Pool, thus making it impossible to prepare a Record of Appeal.”
3. I have perused the Court file and I have not seen a copy of any written notice issued by this Court under rule 16 of the [Employment and Labour Relations Court \(Procedure\) Rules](#) 2016. If such a notice was issued, which appears to have been the case, why is there no copy of the same in the Court file”.



4. When the matter was first placed before me on 28/9/2023, Counsel for the Appellant told the Court that the Appellant had on 7/2/2023 been served with a notice to show cause, and that an affidavit in response to the notice had been filed on 15/3/2023. This appears to be the affidavit referred to in paragraph 2 of this Ruling.
5. On the aforesaid date (28/9/2023), I directed Counsel for the Appellant to furnish the Court with a copy of the Notice to Show Cause served on them by the Court. This has not been done to date.
6. In the interest of justice, I make the following orders:-
  - a. the Appellant shall file and serve a complete record of appeal within thirty days of this Ruling, failing which the appeal shall stand dismissed for want of prosecution.
  - b. mention on 28/2/2024 for further orders and/or directions.
7. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT MOMBASA THIS 30<sup>TH</sup> NOVEMBER 2023**

**AGNES KITIKU NZEI**

**JUDGE**

**ORDER**

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable

Court fees.

**AGNES KITIKU NZEI**

**JUDGE**

Appearance:

..... Appellant

..... Respondent

