



**Ayieya v National Bank of Kenya Limited (Miscellaneous Cause
E202 of 2023) [2023] KEELRC 3052 (KLR) (27 November 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3052 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS CAUSE E202 OF 2023
NZIOKI WA MAKAU, J
NOVEMBER 27, 2023**

BETWEEN

BENSON ODERO AYIEYA APPLICANT

AND

NATIONAL BANK OF KENYA LIMITED RESPONDENT

RULING

1. The applicant seeks by way of his notice of motion application dated September 28, 2023 for the reconstruction of the court file 964 of 2011 – Benson Odero Ayieye v National Bank of Kenya Limited. He asserts the file is missing/misplaced or lost hence the request for reconstruction. It is unclear whether the Applicant was paid the decretal sum and what the position regarding the costs is. In 2016 when the Learned Judge granted the claimant (applicant herein) Kshs. 1,500/- as 1 month allowance and Kshs. 50,000/- as ex gratia payment as well as costs of the cause, there is no indication of any communication between the advocates for the claimant in the suit and the respondent.
2. There is also no affidavit of service on the court record indicating the service of the application upon the Respondent’s counsel. Granted the decision was made in 2016 and there is no clarity as to the actual status of the matter, I will decline to grant the prayers sought by the Applicant in his motion. The file may well have been closed and archived hence the inability to trace it. The parties are directed to revisit the archive and check on the Registers to confirm the location of the file before making another attempt to reconstruct. The respondent must be on board as well. Application dismissed with no order as to costs.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF NOVEMBER 2023

Nzioki wa Makau

JUDGE



