



**Langat v KCB Bank (K) Limited (Cause E197 of 2022)
[2023] KEELRC 3125 (KLR) (22 November 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3125 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E197 OF 2022
DKN MARETE, J
NOVEMBER 22, 2023**

BETWEEN

SAMMY KIPKORIR LANGAT CLAIMANT

AND

KCB BANK (K) LIMITED RESPONDENT

RULING

1. This is an application dated 24th May, 2023, and seeks that the suit be dismissed for want of prosecution.
2. The Claimant/Respondent opposes the application vide a Replying Affidavit sworn on 3rd July, 2023.
3. The application is premised on the basis that whereas this suit was filed on 30th March, 2022 no attempt has been made by the claimant to prosecute or move it forward one year down the line. This delay is long and inordinate and the claimant seems to have lost interest in the prosecution of this claim.
4. The Claimant/Respondent denies this. It is his case that she moved the court vide a letter dated 23rd August 2022 requesting the court's Deputy Registrar to list the matter for mention for purpose of a pre-trial with no success to date.
5. The Claimant deems the application is premature and posits that the Respondent would not suffer any prejudice if this matter was allowed to carry its course. This would be central to the interests of justice and serve all parties in equality.
6. This is a simple but critical and procedural application. It is one where this court is call upon to exercise its discretion one way or the other to extinguish the conflict between the parties. This discretion is exercised on the basis of the merits of the respective cases of the parties.
7. Here, the Claimant/Respondent comes out louder than the Applicant. She establishes a case of a committed administrative follow-up of the matter with the Deputy Registrar which unfortunately



did not yield any positive results. This was a diligent move and therefore renders her blameless for any delay, if at all.

8. Again, the Claimant/Respondent argues and submits that this matter has been around for about a year and moreover, no party would suffer any prejudice if it was allowed to carry its course.
9. I agree with the Claimant/Respondent. Her case overwhelms the application.
10. I am therefore inclined to allow the application with orders that each party bears their costs of the same.

DELIVERED, DATED AND SIGNED THIS 22ND DAY OF NOVEMBER 2023.

D. K. NJAGI MARETE

JUDGE

Appearances:

Mr. Gacheru instructed by Kangethe & Mola Advocates for the Respondent/Applicant.

Mr. Odero for Respondent Union.

