



Mulimi v Halar Industires Ltd (Employment and Labour Relations Cause E111 of 2022) [2023] KEELRC 3389 (KLR) (20 December 2023) (Ruling)

Neutral citation: [2023] KEELRC 3389 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E111 OF 2022
AN MWAURE, J
DECEMBER 20, 2023**

BETWEEN

FRANCIS MULIMI CLAIMANT

AND

HALAR INDUSTIRES LTD RESPONDENT

RULING

1. The appellant herein filed a memorandum of appeal dated 14th July 2022.
2. The record of appeal has however never been filed since. The reasons given are delay by the registries to release the proceedings of the lower court.
3. Mr Andego advocate for the respondent had applied during his submissions in court on 20th September 2023 of the appeal to be dismisses since there was no record of appeal filed since July 2022.
4. The counsel of the appellant Mr Jason Manoa however vide his affidavit dated 9th October 2023 demonstrated he had been pursuing the proceeding from the lower court consistently without any success.
5. Mr Ondago had no objection to deferring the notice to dismiss the appeal.
6. There however seems to be confusion as there are a series of similar fees E107/2022, E 111/2022 and E116/2022 but indeed the court had already given a ruling to deer he notice to show cause to dismiss the appeal on 11th October 2023.
7. The appellant had been given time to file a record of appeal but seems he was indisposed. He is given further 45 days to file the record of appeal. Case will be mentioned on 26/2/2024 to confirm compliance and give directions on the proceedings of the appeal.

Orders accordingly.



DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 20TH DAY OF DECEMBER, 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 15th March 2020 and subsequent directions of 21st 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

