



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 384 OF 2016

KENYA ENGINEERING WORKERS UNION.....CLAIMANT

VERSUS

MAISHA MABATI LIMITED.....RESPONDENT

RULING

1. The claimant was called upon to show cause why the suit should not be dismissed for want of prosecution by a notice to show cause dated 11th February, 2021.
2. The suit was filed on 11th March, 2016 under a Certificate of Urgency and interim injunction was issued by Mbaru, J. on 14th March, 2016.
3. A notice of Preliminary Objection to the suit was filed on 18th March, 2016 together with grounds of opposition to the suit of even date.
4. The interim orders were discharged by Abuodha, J. on 21st March, 2016 and the suit was stood over generally for failure by the claimant to attend Court on the day.
5. From the record, the claimant did not take any further step in the matter until the Notice to Show /cause was served on the 11th February, 2021.
6. The claimant filed a replying affidavit sworn to by one **Chanzu Bumale** in which there is no reasonable explanation why the claimant not only failed to prosecute the notice of motion filed on a certificate of urgency together with the statement of claim on 11th March 2016, but also failed to prosecute the suit for a period of over five (5) years.
7. The respondent in their grounds of opposition clearly stated that the matter complained of by the claimant did not exist since the respondent had not and did not have any intention to outsource its core mandate. The respondent further emphasized that no dispute has been reported to the Ministry of Labour regarding the alleged dispute before filing the suit.
8. The Court is satisfied that the claimant has not shown any interest to prosecute this suit to conclusion. The delay in prosecuting the suit for over (5) years without any reasonable justification is prejudicial to the respondent and to the administration of justice in particular.
9. The Court finds that there is good cause to dismiss this suit for want of prosecution by the claimant and orders accordingly. The claimant shall pay the costs of the suit.

DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 17TH DAY OF FEBRUARY, 2022.

MATHEWS N. NDUMA

Judge

Appearances

Mr. Haraka for claimant

Mr. Wambua for Respondent

Ekale – Court Assistant.