



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT NAKURU

ELRC CAUSE NUMBER 9 OF 2016

RAINFOREST FARMLANDS (K) LTD.....APPELLANT

-VERSUS-

SAMUEL MWANGI WACHIRIRESPONDENT

DIRECTIONS

1. On 15th December, 2021 this court fixed this matter for delivery of judgment on 28th February, 2022. This is after Counsel for both parties had by consent filed written submissions as the agreed mode of hearing and disposal of this appeal.

2. However, when this court retreated to write the judgment several anomalies were noted which made it legally impossible for this court to author the judgment before those anomalies are addressed.

3. The said anomalies include:-

(i) The entire lower (trial) court original file is missing and not available in this bundle.

(ii) The record of appeal as filed by Counsel for the Appellant is incomplete in that the typed proceedings of the trial court are missing.

(iii) There are two sets of proceedings one by G. Gesora (CM) and the other by F.K. Kimilu (PM). The record indicates that both judicial officers conducted proceedings in respect of Naivasha CMCC 404 of 2014 that gave rise to this appeal. However, the subject matter of the proceedings before both Magistrates are different. Those before G. Gesora (CM) are in respect of a work place injury while those before E.K. Kimilu (PM) relate to injuries in a road accident.

(iv) However, there is only one judgment by G. GESORA (CM) delivered on 29th September, 2016.

4. The mix- up and confusion in this file has to be sorted out before a judgment may be written and delivered. In the circumstances this court directs and orders as follows:

(i) THAT the Deputy Registrar/Registry do call for the original trial court file being Naivasha CMCC No. 404 of 2014 – SAMUEL MWANGI WACHIRA VS. RAINFOREST FARMLAND (K) LTD together with certified copies of the proceedings thereof.

(ii) THAT the delivery of judgment in this appeal be and is hereby stayed pending the sorting out of the issues stated above.

(iii) THAT this matter be mentioned in court on 28th March, 2022 for further directions/orders.

5. The directions herein are given based on **Sections 1A, 1B, 3, and 3A of the Civil Procedure Act (Cap 21), Section 3 of the Employment and Labour Relations Court No. 20 of 2011, and Article 159 (2) (b) (d) of the Constitution.**

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DAVID NDERITU

JUDGE

7TH MARCH, 2022