



**Okoth v New Kenya Co-operative Creameries Ltd (Cause
1767 of 2015) [2022] KEELRC 89 (KLR) (27 April 2022) (Ruling)**

Neutral citation: [2022] KEELRC 89 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1767 OF 2015
NZIOKI WA MAKAU, J
APRIL 27, 2022**

BETWEEN

ISAIAH ODHIAMBO OKOTH APPLICANT

AND

NEW KENYA CO-OPERATIVE CREAMERIES LTD RESPONDENT

RULING

1. The Claimant through his Notice of Motion application dated 19th January 2022 seeks that the dismissal of the suit on 17th March 2021 be reviewed and set aside and that the suit be set down for hearing with costs being in the cause. The grounds for the application are set out on the face of the motion and these are that the case was part heard before Radido J. and that the Covid-19 pandemic hampered further hearing. It is asserted that the case was scheduled for hearing on 17th March 2021 at the instance of the Claimant who duly served the Respondent. Counsel for the Claimant states that the advocate was ready to proceed though he had several matters in other courts and instructed an advocate to hold his brief and seek for time allocation. He asserts that he was led to believe the matter was stood over generally and that he had written several letters to the Court seeking to set down the case for hearing.
2. The case is one where errors have visited the matter from the date it was scheduled for defence hearing to the dismissal before this Court. The Claimant did not appear, nor did the Respondent, on 3rd June 2020, 13th October 2020 and 17th March 2021. The fact that the Claimant was not present is cause for concern. However, since the Claimant's case was closed, the case is to be reinstated and set for mention before any other Court to allocate a date for defence hearing. Costs of this application shall be costs in the cause.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 27TH DAY OF APRIL 2022



Nzioki wa Makau

JUDGE

