



**Kadenge & 7 others v Sala Beach Temple Point (Cause
18 of 2021) [2022] KEELRC 1510 (KLR) (26 May 2022) (Ruling)**

Neutral citation: [2022] KEELRC 1510 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 18 OF 2021**

**AK NZEI, J
MAY 26, 2022**

BETWEEN

EMMANUEL KADENGE & 7 OTHERS APPLICANT

AND

SALA BEACH TEMPLE POINT RESPONDENT

RULING

1. The suit herein was filed on 12th March 2020 and appears to have been placed before the Court only once, on 19th March 2020, regarding a Notice of Motion dated 6th March 2020 which had been filed under a certificate of urgency. The Court directed that the application be served on the Respondent and a hearing date for the application be taken at the Court's Registry. No further action is shown to have been taken on the matter, save for adoption by the Court of a consent compromising the said application.
2. The Respondents are not shown to have filed any pleadings.
3. On the 17th November 2021, the Court's Deputy Registrar issued, a written notice to both parties under Rule 16 of the *Employment and Labour Relations Court (Procedure) Rules* 2016, calling upon then to attend Court on 1st December 2021 and show cause why the suit could not be dismissed for want of prosecution.
4. Rule 16 of the *Employment and Labour Relations Court (Procedure) Rules* 2016 provides as follows:-
 - (1) "In any suit where no application has been made in accordance with Rule 15 or no action has been taken by either party within one year from the date of filing, the Court may give notice in writing to the parties to show cause why the suit should not be dismissed and if no reasonable cause is shown to its satisfaction, may dismiss the suit.



(2) If reasonable cause is given to the satisfaction of the Court, it may make such orders as it thinks fit to obtain the expeditious hearing and determination of the suit.

(3) Any party to the suit may apply for dismissal as provided in paragraph (1).

(4) The Court may dismiss the suit for non-compliance with any direction given under this Rule.”

5. When the matter came up for Notice to Show Cause on 1st December 2021, I directed the Claimants to file an affidavit within seven days showing cause why the suit could not be dismissed for want of prosecution, failing which the suit would stand dismissed for want of prosecution.
6. The Show Cause affidavit, sworn by Ann Githongori Advocate on 3rd December 2021, was filed in Court on 8th December 2021, within the time ordered by the Court.
7. Counsel deponed, inter-alia, that in a bid to settle the suit herein, parties filed a consent dated 25th May 2020, which had, by inadvertence on the part of the Counsel for the Claimants, never been adopted as an order of the Court. Counsel prayed that the consent be adopted as an order of the Court and thereupon the suit be marked as settled.
8. For record purposes, I do state that the consent referred to in paragraph 7 herein above does not seem to have been placed on the Court’s record.
9. In view of the foregoing, I make the following orders:-
 - a) The Claimants shall move the Court for adoption of any consent signed by the parties herein within fourty five days of today, failing which the suit shall stand dismissed for want of prosecution.
 - b) Mention on 19th September 2022 for appropriate orders.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 26TH DAY OF MAY 2022

AGNES KITIKU NZEI

JUDGE

ORDER

In view of restrictions on physical Court operations occasioned by the COVID-19 Pandemic, this Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

Mr. Kagai for Claimant

No Appearance for Respondent

