



**Charo & 2 others v Navida Natural Foods Limited (Cause
801 of 2016) [2022] KEELRC 1408 (KLR) (5 May 2022) (Ruling)**

Neutral citation: [2022] KEELRC 1408 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 801 OF 2016**

**AK NZEI, J
MAY 5, 2022**

BETWEEN

**KANZE KATANA CHARO 1ST CLAIMANT
GRACE KAZUNGU NYALE 2ND CLAIMANT
ELVINA DAMA MARERA 3RD CLAIMANT**

AND

NAVIDA NATURAL FOODS LIMITED RESPONDENT

RULING

1. The defended suit herein was instituted by the Claimant vide a statement of claim dated 26th September 2016. The Respondent filed a Response to the Statement of Claim on 24th October 2019.
2. The Court's record shows that the suit was last in Court for mention on 26th October 2020 when the same was taken out as the trial judge was on transfer. No further step is shown to have been taken towards prosecution of the suit.
3. On 10th 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 them to attend Court on 23rd November 2021 and show cause why the suit could not be dismissed for want of prosecution. Rule 16 of the *Employment and Labour Relations Court (Procedure) Rules* 2016 provides:-
 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.”
4. The Court did not sit on 23rd November 2021 and when the matter finally came up for notice to show cause before me on 30th November 2021, I made the following orders:-
 - (a) the Claimant is granted 7 days to file an affidavit showing cause why the suit should not be dismissed for want of prosecution, failing which the suit shall stand dismissed for want of prosecution.
 - (b) mention on 26/1/2022.”
5. The foregoing orders were made in the presence of Counsel holding brief for the Claimant’s Counsel. The show cause affidavit was, however, not filed until 18th January 2022. The affidavit was filed on a non-existent suit as the suit herein stood dismissed for want of prosecution by close of the day on 7th December 2021. The affidavit of Jane Akinyi Onyango Advocate sworn on 9th December 2021 and filed in Court on 18th January 2022 is hereby struck down and the Court file herein is ordered closed.
6. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 5TH 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:

N/a for Claimant

Kabole for Respondent

