



REPUBLIC OF KENYA



KENYA LAW
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Nzomo v Kenya Airport Parking Services Ltd & another (Cause E257 of 2021) [2022] KEELRC 1601 (KLR) (16 June 2022) (Ruling)

Neutral citation: [2022] KEELRC 1601 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E257 OF 2021
AN MWAURE, J
JUNE 16, 2022

BETWEEN

JACINTA LOKO NZOMO APPLICANT

AND

KENYA AIRPORT PARKING SERVICES LTD & ANOTHER RESPONDENT

RULING

1. The claimant/applicant has made an application to the Directorate of Criminal Investigation asking him to appoint/assign a technical expert at the Digital Forensics lab to assist the Client in the production and preparation of electronic evidence in line with sections 78(1) and sections 106(b) of the Evidence Act of the Laws of Kenya at the cost of the claimant.
2. The application dated March 22, 2022 cites the directorate of Criminal Investigation as respondent. Yet in the suit cause No E257 of 2021 the Directorate of Criminal Investigation is not a party to the same. There is no way he can just be cited as a respondent in an ongoing case which had other parties and without leave of the court to enjoin as third party. This is basic procedure and I am restrained to say bringing such an application is a waste of the court's time and the court cannot entertain it.
3. The claimant should just have asked for leave of court for directorate of Criminal Investigation to provide the electronic evidence if possible and produce certificate under section 106 of the Evidence Act.
4. The court cannot entertain this application and is hereby dismissed with costs. The applicant is at liberty to regularise the position if need be.

Orders accordingly.

DELIVERED, DATED AND SIGNED IN NAIROBI THIS 16TH DAY OF JUNE, 2022.

ANNA NGIBUINI MWAURE



JUDGE

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court has been guided by article 159(2) (d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under article 48 of the Constitution and the provisions of **section 1B** of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of court fees.

ANNA NGIBUINI MWAURE

JUDGE

