



**Royal Group Industries (K) Ltd v Ombui (Employment and Labour Relations Court Appeal 12 of 2020) [2022] KEELRC 100 (KLR) (16 June 2022) (Ruling)**

Neutral citation: [2022] KEELRC 100 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU  
EMPLOYMENT AND LABOUR RELATIONS COURT APPEAL 12 OF 2020  
DN NDERITU, J  
JUNE 16, 2022**

**BETWEEN**  
**ROYAL GROUP INDUSTRIES (K) LTD ..... APPELLANT**  
**AND**  
**JAMES ABUGA OMBUI ..... RESPONDENT**

**RULING**

**Background**

1. This matter is coming for a ruling on 18<sup>th</sup> July, 2022 in respect of a Notice of motion dated 16<sup>th</sup> February, 2022 by the Appellant/Applicant in which it is seeking for the following orders:
  1. That the order of the Honourable Judge made on the 17<sup>th</sup> November, 2021 automatically dismissing the appellant/Applicant's Appeal for failure to attend court on the said date for the mention of the notice to show cause application dated 22<sup>nd</sup> October, 2021 or filing to respond to the notice to show cause application therein be reviewed, varied and/or set aside.
  2. That the Appellant/Applicant's appeal filed on 7<sup>th</sup> September, 2020 be reinstated for mention to take directions.
  3. That the costs of this Application be provided for.
2. This appeal was dismissed on 17<sup>th</sup> November, 2021 for want of prosecution but now the Appellant/Applicant is seeking that the same be reinstated.
3. However, this court has made a finding in Appeal No. 2 of 2022 that the two appeals relate to the same subject matter as they are seeking to overturn the same judgment of Hon. Limo in Nakuru CMCELRC No. 135 of 2018 delivered on 30<sup>th</sup> January, 2020.



4. In a ruling delivered by this court (ELRC) on 7<sup>th</sup> July, 2020 (Mbaru J) in Misc. ELRC No.4 of 2020 the Appellant/Applicant was granted leave to file an appeal within 14 days of that ruling. However, the Appellant/Applicant did not comply with that order and in blatant abuse of court process filed this appeal and Appeal No.2 of 2020 out of time without leave of court or extension of the 14 days granted earlier on.
5. The two Appeals, No. 2 of 2020 and No.12 of 2020 have been found to be illegal, null, and void.
6. There is therefore no need for this court to waste valuable judicial time in writing a lengthy ruling in respect of Appellant's /Applicant's application dated 16<sup>th</sup> February, 2022.

## **II. Disposal**

7. In the circumstances the Notice of motion dated 16<sup>th</sup> February, 2022 is hereby dismissed with costs as the appeal on which it is grounded and which it seeks to reinstate is a nullity.
8. This appeal stands dismissed for the same reasons stated above.
9. The ruling in Appeal No. 2 of 2022 is hereby attached as annexure 1 to form part of this ruling.

**DATED, SIGNED, AND DELIVERED VIRTUALLY AT NAKURU THIS 16TH DAY OF JUNE 2022.**

**DAVID NDERITU**

**JUDGE**

