



**Kenya Council of Employment and Migrations Agencies v Kenya
Literature of Bureau & 3 others; Baya & 2 others (Interested Parties)
(Petition 35 of 2016) [2022] KEELRC 1556 (KLR) (2 June 2022) (Ruling)**

Neutral citation: [2022] KEELRC 1556 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION 35 OF 2016
MN NDUMA, J
JUNE 2, 2022

BETWEEN

**KENYA COUNCIL OF EMPLOYMENT AND MIGRATIONS
AGENCIES CLAIMANT**

AND

**KENYA LITERATURE OF BUREAU 1ST RESPONDENT
CABINET SECRETARY, EDUCATION SCIENCE AND TECHNOLOGY 2ND
RESPONDENT**

**SECRETARY, STATE CORPORATION ADVISORY COMMITTEE 3RD
RESPONDENT**

ATTORNEY GENERAL 4TH RESPONDENT

AND

FRANCIS S. K. BAYA INTERESTED PARTY

BELIO KIPSANG INTERESTED PARTY

EVE AKINYI OBARA INTERESTED PARTY

RULING

- The petition was on May 26, 2021 marked as settled and file closed before me. The parties had not agreed on the issue of costs and the court recorded an order in the following terms:-

“Mention before the Deputy Registrar to record consent on issue of costs and/or taxation on June 8, 2021.”



2. The applicant filed an application dated November 11, 2021 seeking to have the court endorse alleged consent on issue of costs by the parties before the Deputy Registrar.
3. The application was opposed by a replying affidavit of Alfred Ochieng Opiyo an advocate for the respondents who deposes that the said application is misguided and amounts to abuse of court process. That there has never been a consent recorded by the parties on the issue of costs. The office of Attorney General expressed the same view before court.
4. A perusal of the record does not depict any consent on the issue of costs recorded by the parties nor was any bill of costs filed and taxed. The matter was disposed of by a ruling of the Deputy Registrar dated August 6, 2021 accordingly.
5. Accordingly, the application is an abuse of court process and a waste of valuable court's time. The same is dismissed with costs to the applicants.

DATED AND DELIVERED AT NAIROBI THIS 2ND DAY OF JUNE, 2022.

MATHEWS N. NDUMA

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, this Ruling has been delivered to the parties online with their consent. 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 18 of the Civil 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.

MATHEWS N. NDUMA

JUDGE

Appearances

Mr. Nyabega for Petitioner/Applicant

Mr Kioko for 2nd, 3rd and 4th respondents

Mr. Ochieng Opiyo for 1st respondent

Mr. Ekale – Court Assistant

