



**Kibore v National Oil Corporation of Kenya (Cause 1993 of 2017)
[2022] KEELRC 1291 (KLR) (12 July 2022) (Ruling)**

Neutral citation: [2022] KEELRC 1291 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1993 OF 2017
NZIOKI WA MAKAU, J
JULY 12, 2022**

BETWEEN

MABEL KIBORE CLAIMANT

AND

NATIONAL OIL CORPORATION OF KENYA RESPONDENT

RULING

1. The Motion by Mr. Mwaura is to refer to Application of 30th November 2020 which precipitated the hearing of the case. He states that there were replies as well as action by Respondent prior to hearing and that it would be unfair to insist there was above process. It is his argument that if this is a move then evidence should be led on it by the Claimant as the Applications are part of the record.
2. Mr. Mbogo for the Respondent argues that the question he is asking are in regard to the dismissal the claimant has articulated. He states that the intercounty applications were dealt with conclusively and determined. That the Claimant subsequently filed an additional list and bundles of documents on 1st October 2021 and that this refers to the summary dismissal of the Claimant on 29th January 2022. There being no amendment of pleading he submits we all agree that an application cannot stand on its own and that unless evidence is brought the only dismissal being dealt with is that of 5th October 2017. He submits there is no prejudice in the questions he is asking the witness.
3. The issue of termination of the Claimant is core to this action, it is argued by the Respondent that it is not in dispute that this relates to termination on 5th October, 2017. The Claimant on her part argues that the termination that was dated out in 2020 also falls for determination.
4. The termination of the Claimant by the Respondent has been the subject of May intercounty motions the latest being the action in 2020 and 2021. I do not see Rulings in respect of the applications of November 2020 and the one of June 2021. Be that as it may hearing can proceed with questions being



put to witness on the issue relating to termination as pleaded by parties. As such Claimant may answer the questions put by Mr. Mbogo.

So Ordered.

DATED AND DELIVERED AT NAIROBI THIS 12TH DAY OF JULY 2022

Nzioki wa Makau

JUDGE

