



**Waka v Sammer Agriculture & Livestock Kenya Limited (Cause
2167 of 2016) [2022] KEELRC 4015 (KLR) (29 September 2022) (Ruling)**

Neutral citation: [2022] KEELRC 4015 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 2167 OF 2016
J RIKA, J
SEPTEMBER 29, 2022**

BETWEEN

ALLAN LITUNYA WAKA CLAIMANT

AND

SAMMER AGRICULTURE & LIVESTOCK KENYA LIMITED ... RESPONDENT

RULING

1. The Claimant seeks, in an Application dated January 11, 2022, that his Statement of Claim which was dismissed for non-attendance on December 15, 2021, is reinstated.
2. The Claim was filed in 2016.
3. It was scheduled by the Court for NTSC why, it should not be dismissed for want of prosecution. NTSC was on November 18, 2021. The Claimant told the Court that he wished to be given an opportunity to prosecute his Claim. However, he had not filed an Affidavit, explaining delay, and was allowed 7 days to do so.
4. On December 21, 2021, the date reappointed for NTSC, the Claimant and his Advocate did not attend Court. There was no Affidavit filed, explaining delay. The Advocate for the Respondent was present and asked the Court to dismiss the Claim, for want of prosecution. The Court obliged.
5. The Claimant has made an Application dated January 11, 2022, asking the Court reinstate the Claim.
6. The Court has reviewed the record. There is a consistent failure by the Claimant to attend Court, when notified to attend. Failure on December 21, 2021 was not the first occasion. Besides, the Claimant failed to file and serve an Affidavit explaining want or prosecution. There was failure, after failure. The Respondent states the effect is that the Claimant has kept the Respondent a hostage in this Court. The Court agrees. The Claim was filed over 7 years ago, and has not been prosecuted.



7. The Application seeking reinstatement of the Claim is dismissed with no order on the costs and filed closed, as earlier ordered.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI,
UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS
SEPTEMBER 29, 2022.**

JAMES RIKA

JUDGE

