



**Barasa v Security Group Africa Ltd (SGA) (Cause 50 of 2019)
[2022] KEELRC 12834 (KLR) (14 October 2022) (Ruling)**

Neutral citation: [2022] KEELRC 12834 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
CAUSE 50 OF 2019
NJ ABUODHA, J
OCTOBER 14, 2022**

BETWEEN

JOHN BARASA CLAIMANT

AND

SECURITY GROUP AFRICA LTD (SGA) RESPONDENT

RULING

1. Before me is an application dated September 24, 2021 seeking the recalling for further cross-examination, the respondents witness one Patrick Nzomo Mwasya.
2. The application is premised on grounds *inter alia* that when the witness appeared before the court on September 23, 2021 the network did not work seamlessly making the witness evidence disjointed and leaving some areas untackled. According to counsel the network connectivity challenge was such that it distorted the way evidence was adduced and line of cross-examination.
3. The respondent opposed the application claiming this was an attempt to delay the matter and get a second chance to fill the gaps in the claimant’s case.
4. The role of the court in resolving disputes is to create an environment where each party would at the conclusion of the trial feel they had a fair chance to present their case. Recalling a witness though disrupts the flow of evidence but may be necessary where good cause is shown.
5. From the record, the court on September 22, 2021 adjourned the hearing noticing the instability of communication from counsel for the respondent. It is for this reason the court adjourned to November 2, 2021. In the meantime, the claimant brought the present application stating that due to unstable network, he felt the flow of evidence was not smooth and there were gaps in the respondent’s witness testimony due to unstable network.



6. The courts takes the view that allowing the application will occasion the respondent no prejudice and would be in the interest of justice.
7. The application is therefore allowed and matter set for mention on November 7, 2022 for purposes of allocating a new hearing date.
8. It is so ordered

DATED AND DELIVERED AT ELDORET THIS 14TH DAY OF OCTOBER, 2022

ABUODHA NELSON JORUM

JUDGE ELRC

