



**Mwangi (suing on behalf of the Estate of James Gathedi Mwangi – Deceased)
v Sea-Link Logistics Contractors & Manpower (Miscellaneous Application
E049 of 2022) [2022] KEELRC 13522 (KLR) (13 December 2022) (Ruling)**

Neutral citation: [2022] KEELRC 13522 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
MISCELLANEOUS APPLICATION E049 OF 2022
AK NZEI, J
DECEMBER 13, 2022**

BETWEEN

**NANCY MUTHONI MWANGI APPLICANT
SUING ON BEHALF OF THE ESTATE OF JAMES GATHEDI MWANGI –
DECEASED**

AND

SEA-LINK LOGISTICS CONTRACTORS & MANPOWER RESPONDENT

RULING

1. On October 24, 2022, the applicant filed a notice of motion dated October 14, 2022 seeking orders:
 - a) That leave be granted to the applicant to serve the respondent by way of substituted service through the respondent's last known postal address, being PO Box 40259 -80100 Mombasa.
 - b) That costs be provided.
2. It is stated, both in the application and in the supporting affidavit of one Amos Kivisu Mutambi (a court process server) sworn on the aforesaid date:-
 - a) That the physical location of the respondent cannot be traced by the said court process server.
 - b) That relying on Dosh-1 Form, the court process server called No 0712632525 and spoke to the respondent's representative, who received the call, confirmed having known the deceased, but directed the court process server to serve the insurance, and subsequently switched off the phone.



- c) That the court process server was subsequently directed to the respondent's offices in Mombasa by the Director of Occupational Safety and Health Services (Mombasa), and that the said offices have remained closed, making (physical) service impossible.
3. Service of court process by registered post is contemplated in rule 11(8) of the *Employment and Labour Relations Court (Procedure) Rules* 2016 which provides:-
- “where service of pleadings under these Rules is effected through registered carrier, the affidavit of service shall be accompanied by the certificate of mailing.”
4. The application is merited, and the same is hereby allowed as prayed.
5. Orders accordingly.

DATED, SIGNED AND DELIVERED AT MOMBASA THIS 13TH DAY OF DECEMBER 2022

AGNES KITIKU NZEI

JUDGE

ORDER

In view of restrictions on physical Court operations occasioned by the COVID-19 Pandemic, this Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

N/A for Applicant

N/A Respondent

