



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NUMBER 1630 OF 2016

BETWEEN

LINET LUGUSU MATIKA..... CLAIMANT

VERSUS

SAS SECURITY COMPANY LIMITED..... RESPONDENT

RULING

1. Judgment was delivered in favour of the Claimant for a sum of Kshs. 102,166.67 on 8th November 2019.
 2. Judgment has not been satisfied.
 3. Instead, the Respondent has filed an Application for Review of Judgment, dated 9th December 2019. The Respondent also prays to be allowed to liquidate the decretal sum in monthly instalments of Kshs. 10,000.
 4. Based on the Affidavit of Suleiman Nahid, Managing Director of the Respondent, sworn on 9th December 2019, the Respondent states that it has been going through financial turmoil, and is unable to pay the decretal amount. The Respondent at the same time attacks the Judgment of the Court, alleging that the evidence of the Claimant was uncorroborated; that it was not considered she had absconded; and that her salary for March and June 2015 was paid.
 5. The Claimant is opposed to the Application, based on her Replying Affidavit, sworn on 19th February 2020. She states that the Application is in abuse of the process of the Court. The Respondent seeks to introduce new evidence. The mode of payment proposed by the Respondent is not acceptable to the Claimant.
- The Court Finds: -**
6. The Respondent does not seek the prayer on staggered liquidation of the decretal sum, as an alternative to review and setting aside of Judgment.
 7. The Court has formed the view that the payer for review and setting aside, is diversionary, the main objective in the Application, being the grant of staggered payment of the decretal amount.
 8. There is nothing wrong with the Judgment of the Court. There is no ground shown, under Rule 33 of the E&LRC [Procedure] Rules, 2016, to justify review. The evidence of the Claimant was not required to be corroborated. The Respondent had all the employment records upon trial, and could have presented them to the Court. The Application for Review of Judgment is a waste of judicial time.
 9. If the Respondent was honest about payment of the decretal sum of Kshs. 102,166.67 in instalments of Kshs. 10,000 monthly, the Respondent should have demonstrated its commitment, by paying the 1st instalment in January 2020, the month following the filing of its Application. By today, perhaps the decretal amount would have been liquidated. Instead, the Respondent has opted to delay payment, by moving the Claimant up and down the corridors of justice. The Claimant submits that she is a widow, with a family to take care of. This is sad. The Respondent must satisfy the Judgment without further delay.

IT IS ORDERED: -

a. The Application by the Respondent dated 9th December 2019 is rejected in its totality.

b. Costs to the Claimant.

DATED AND SIGNED AT CHAKA, NYERI COUNTY, UNDER MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 9TH DAY OF APRIL 2021

JAMES RIKA

JUDGE