

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

CAUSE NO. 1899 OF 2016

JACKSON NTHUKU MUTISO.....CLAIMANT

VERSUS

TANATHI WATER SERVICES BOARD.....1ST RESPONDENT

KITUI WATER AND SANITATION COMPANY.....2ND RESPONDENT

THE CHIEF OFFICER,MINISTRY OF AGRICULTURE, WATER AND IRRIGATION,

COUNTY GOVERNMENT OF KITUI.....3RD RESPONDENT

RULING

1. I have read the Motion seeking my recusal and I see nothing of substance in it to allow for recusal of the Court. The other parties were in attendance, dully participated and the fact the 1st Respondent had technological challenges in this Covid era is not to be blamed on the Court. Counsels should note applications are lost and non every time and whenever a party loses because it did not present a cogent application or case it cannot be basis for recusal. As no basis arises for recusal Motion is dismissed.

2. The parties before Court can attest we have in the last 30 minutes been seeking to have the parties on board and to have their gadgets working and we even took a break to allow for a party who was not on to be on-boarded. The advocate applying for recusal even had a challenge addressing Court earlier and the Court sought and was notified by Mr. Mbeche of his predicaments. To turn around and say a party will not get justice for the foregoing reasons is intellectual dishonesty and not something that should be heard in these times when the mode of hearing is a hybrid of online or, in person hearing or a mix of the 2. Parties had been invited for hearing in person but the witness for the 2nd Respondent who has challenges is the cause for the online hearing today.

3. Hearing will be deferred on application of the 2nd Respondent as it seems the witness is unable to be heard due to hiccups on the witnesses end. However, the 2nd Respondent will be mulcted in nominal costs of adjournment of the matter being Kshs. 1,000/- adjournment fee.

4. Hearing date to be given after consultation with advocates for parties on the date.

So ordered.

Dated and delivered at Nairobi this 22nd day of September 2021

Nzioki wa Makau

JUDGE