



REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

CAUSE NO. E694 OF 2020

TRANSPORT WORKERS UNION KENYA.....CLAIMANT

VERSUS

APOLLO TOURS AND TRAVEL LIMITED.....1ST RESPONDENT

PUBLIC TRANSPORT OPERATORS UNION.....2ND RESPONDENT

RULING

1. On 19th February, 2021, Hon. Rika J, made the following order which is on record.

“1. The matter was referred for conciliation by an Order of the Court given on 27th January, 2021, and fixed for mention on 7th June, 2021.

2. The application filed on 18th February, 2021 is made in abuse of the process of the Court.

3. Parties shall present all issues before the Conciliator, and only revert to this Court as ordered on 7th June, 2021.

2. The applicant filed an application dated 23rd February, 2021 and the duty judge, Hon. Maureen Onyango J, certified the matter urgent and referred the application for inter-parties hearing “*before the Trial Court (Court No. 5) on 3rd March, 2021.*”

2. The application came before me on the 3rd March, 2021 for mention for directions when Mr. Rakoro for claimant/respondent; M/s Kimani for intended claimant; and Mr. Okonji for the 2nd respondent appeared before me.

3. Upon hearing the advocates present, the Court made the following orders:-

“The matter to go back to conciliation as directed by Rika, J. on 19/2/2021. Report of conciliator to be filed as directed on 7/6/2021.”

4. The present application dated 5th March, 2021 seeks to have the court review its orders issued on 3rd March, 2021.

5. The Court merely endorsed the orders by Justice Rika, on record and did not make any further orders on that date. Hon. Justice Rika, is still a sitting judge at Nairobi Employment and Labour Relations Court, and there cannot be any valid basis for me to review and/or set aside orders issued by the Honourable Judge, unless there are special circumstances such as the Judge’s unavailability to deal with the matter which may permit me to do so.

6. The application for me to review the orders which simply stated that the parties adhere to the orders by Hon. Rika, J. is devoid of any merits at all. The same is an abuse of the Court process. Nothing stated in the Notice of Motion and or the supporting affidavit and submissions of the applicant changes the aforesaid view and finding by the Court.

7. The application is dismissed with costs.

DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 16TH DAY OF SEPTEMBER,

2021.

MATHEWS N. NDUMA

JUDGE

Appearances

Fenus Okonji Advocate for Applicant

Emily Kimani & Co. Advocates for intended interested party

Rakoro & Co. Advocates for Claimant/Respondent