



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO 1231 OF 2017

DANIEL SUDI.....CLAIMANT

VERSUS

SPIC 'N' SPAN CLEANING SERVICES.....RESPONDENT

RULING

1. By its amended Notice of Motion dated 23rd November 2020, the Respondent seeks dismissal of the Claimant's claim for want of prosecution.
2. The Motion is supported by an affidavit sworn by the Respondent's Counsel, Diana Odero and is based on the following grounds:
 - a) That the claim was filed in the year 2017;
 - b) That the Respondent duly filed its Memorandum of Appearance and Defence on 2nd August 2017;
 - c) That the matter was fixed for pre-trial directions on 3rd March 2019, when it was confirmed ready for hearing;
 - d) That the Court directed the parties to fix a hearing date at the Registry;
 - e) That the Claimant has not taken any steps since to have the matter concluded.
3. The Claimant did not respond to the application in spite of due service.
4. Rule 16 of the Employment and Labour Relations Court (Procedure) Rules provides as follows:
 - (1) In any suit in which no application has been made in accordance with Rule 15 or no action has been taken by either party within one year from the date of its filing, the Court may give notice in writing to the parties to show cause why the suit should not be dismissed and if no reasonable cause is shown to its satisfaction, may dismiss the suit.***
 - (2) If reasonable cause is given to the satisfaction of the Court, it may make such orders as it thinks fit to obtain expeditious hearing and determination of the suit.***
 - (3) A party to the suit may apply for dismissal as provided in paragraph (1).***
 - (4) The Court may dismiss the suit for non-compliance with any direction given under this rule.***
5. According to the record, this matter was last in court on 4th March 2019, when **Makau J** certified it ready for hearing and directed the parties to take a hearing date at the Registry.
6. No action was taken until the present application for dismissal of the claim for want of prosecution.

7. Moreover, the Claimant did not bother to respond to the application.

8. It is therefore evident that the Claimant is no longer interested in pursuing the claim.

9. In the premises, the claim is dismissed for want of prosecution.

10. Each party will bear their own costs.

11. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 23RD DAY OF NOVEMBER 2021

LINNET NDOLO

JUDGE

Appearance:

No appearance for the Claimant

Miss Odera for the Respondent