

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE NO. 1298 OF 2016

(Before Hon. Lady Justice Anna Ngibuini Mwaure)

MESHACK ODHIAMBO YALA.....CLAIMANT

VERSUS

NANCHANG FOREIGN ENGINEERING COMPANY LTD.....RESPONDENT

RULING

1. The court had fixed the suit for Notice to Show Cause on 27th September, 2021 why suit should not be dismissed.
2. The claimant by his affidavit dated 1st September, 2021 and deponed by his advocates **UPENDO ALLAN IGNACIOUS** enlisted elaborate steps the claimant has taken over the years upto 2021 February in trying to list the case for hearing.
3. I am satisfied the matter is not qualified for dismissal under Section 16 Employment and Labour Relations Rules and so the notice to show cause is deferred.
4. Case is referred to the Deputy Registrar on 9th of December, 2021 to fix a date for hearing.

DELIVERED, DATED AND SIGNED IN NAIROBI THIS 4TH DAY OF NOVEMBER, 2021

ANNA NGIBUINI MWAURE

JUDGE

ORDER

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court has been guided by Article 159(2) (d) of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of court fees.

ANNA NGIBUINI MWAURE

JUDGE