



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA**

**AT UASIN GISHU**

**COURT NAME: ELDORET LAW COURT**

**CASE NUMBER: ELRC.C/330/2017**

**CITATION: GEORGE SHIRANI VS RAIPLYWOODS KENYA LTD**

**RULING**

**ON 2021-11-08 BEFORE HON. JUSTICE J. N. ABUODHA**

1. By a Motion dated 3rd February, 2021 the respondent moved the Court for Orders that the suit herein be dismissed for want of prosecution and that the Claimant be condemned to pay costs of the suit and the application.
2. The application was based on grounds among others that this court on 22nd August, 2019 issued a notice to Show Cause why the suit herein should not be dismissed for want of prosecution.
3. When the matter came up for showing Cause on 2nd October, 2019 Counsel for the Claimant urged the Court not to dismiss the suit and give the Claimant a chance to prosecute the suit. The Court granted the prayer and directed that the matter be set down for hearing.
4. According to the respondent, it is now more than a year since the Court directed that the matter be set down for hearing.
5. The applicant further stated that the inaction by the Claimant amounted to abuse of the process of the court.
6. When the application herein came up before me ex parte on 24th February, 2021, I ordered that the same be served on the Claimant and a response thereto be filed within 14 days of service. The matter was thus set for mention on 15th March, 2021.
7. On 15th March, 2021 when the matter came up only the respondent appeared however the same could not proceed because there was no proof of service on the Claimant. The mention was therefore reset for 12th April, 2021.
8. On 12th April, 2021 only the respondent advocate was present and the Court once again set the matter for further mention on 10th May, 2021. On this day neither party attended Court and the matter was referred to the Registry for allocation of another date.
9. The matter subsequently came up on 21st September, 2021 and this time Mr. Korir instructed by Bundotich and Company appeared for the Claimant and indicated he had filed a Replying Affidavit to the application dated 3rd February, 2021. Neither the Court nor the respondent's Counsel had received the said Replying Affidavit. The Court therefore directed that Counsel serves the respondent with the Replying Affidavit and also make available to the Court, a copy within 7 days from 21st September, 2021. The matter was thus set for mention on 8th November, 2021.
10. When the matter came up on 8th November, 2021 only Lagat appeared for the respondent. The Claimant and or his counsel were once more absent. Further there was no Replying Affidavit from Claimant on record contrary to direction of the Court.
11. From the chronology of events the Court seems persuaded that the Claimant has lost interest in the matter.
12. Consequently, the Court allows the application dated 3rd February, 2021 and hereby orders the suit herein dismissed for want of prosecution.
13. The respondent shall have costs of the application and the suit.

14. It is so ordered.

**GIVEN UNDER MY HAND AND SEAL OF THIS COURT ON 2021-12-01 11:41:18**

**SIGNED BY: HON. JUSTICE J. N. ABUODHA (ADMINISTER JUSTICE)**

**THE JUDICIARY OF KENYA.**

**ELDORET ELRC**

**EMPLOYMENT AND LABOUR RELATIONS COURT**

**DATE: 2021-12-01 11:41:18**