



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**  
**AT NAIROBI**  
**CAUSE NO. 1509 OF 2015**

(Originally Milimani CMCC No. 1418 of 2007)

**BONIFACE MUTUA KITUNGU.....CLAIMANT**

**VERSUS**

**PETER MWAURA**

**KAMAU t/a MWAURA KAMAU & CO. ADVOCATES.....RESPONDENT**

**RULING NO. 2**

1. On 15 July 2019 this Court delivered a Ruling in which it dismissed an application by Boniface Mutua Kitungu (applicant) seeking: the setting aside of the orders given on 21 November 2014 in CMCC No. 1418 of 2007, and the setting aside of the orders given by this Court on 28 January 2019 dismissing the Cause.
2. Undeterred, the applicant filed in Court on 25 October 2019 what he called a *Memorandum of Appeal*.
3. The *Memorandum of Appeal* seeks to challenge a Ruling by the Chief Magistrates Court delivered on 10 August 2007, and dismissal by the same Court of the applicant's suit on 21 November 2014.
4. On 22 January 2020, the Court directed the parties to file and exchange submissions in respect to the *Memorandum of Appeal*.
5. The applicant filed his submissions on 27 January 2020 while the Respondent filed his submissions on 5 February 2020.
6. The Court has given considerable attention to the submissions by the applicant. They relate majorly to issues which are alien to the purported *Memorandum of Appeal*. What the applicant has discussed in the submissions are his exploits and achievements as a student and employee as a Security Officer by an unnamed hotel.
7. The Court has also relooked at the record.
8. The complaints and issues raised by the applicant in the *Memorandum of Appeal* were extensively discussed in the Ruling of 15 July 2019 and need not be rehashed herein.
9. Just for the benefit of the applicant, he has all along been aware that the Chief Magistrates' Court dismissed his suit in 2007, and that this Court differently constituted (as well as this Court) have previously explained to him in minute detail that there are no valid proceedings before this Court for consideration.
10. If at all the applicant was seeking leave to appeal out of time, the Court finds no merit in such application as there has been no plausible reason why the applicant did not appeal within the timelines prescribed for Appeals under the applicable statutory regime.
11. In order to deter the applicant from filing frivolous and vexatious applications, the Court will dismiss the *Memorandum of Appeal* filed in Court on 25 October 2019 with costs of Kshs 2,000/- to the Respondent.

**Delivered, dated and signed in Nairobi on this 28<sup>th</sup> day of February 2020.**

**Radido Stephen**

**Judge**

**Appearances**

Applicant in person

For Respondent Mr. Momanyi instructed by Gachoka & Co. Advocates

Court Assistant Lindsey