



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT NAIROBI

CAUSE 243 OF 2017

(Before Hon. Justice Hellen S. Wasilwa on 28th May, 2020)

AMINA MOHAMMED.....CLAIMANT

VERSUS

QUITE BRIGHT FILMS LIMITED.....RESPONDENT

RULING

1. Before this Court is the Claimant's Application dated 2/12/2019 where the Claimant has sought the following orders:-

a. Judgment be entered on admission on a portion of the Claimant's claim as admitted by the Respondent in paragraph 14 of its response to the Claimant's claim.

b. Costs of this Application be in the course.

c. Any other orders that this Honourable Court shall deem fit to award.

2. The Application is based on the grounds set out in the motion and the Applicant's Supporting Affidavit sworn on 2/12/2019.

3. There is no record of the Respondent's response to the application, in the court file.

The Applicant's Case

4. The Applicant avers that the Respondent has issued an unequivocal admission on a without prejudice basis at paragraph 14 of their response and paragraph 8 of the Witness Statement dated 27/6/2019. The said admission is that indeed they have the Applicant's dues of Kshs. 543,942.00 which the Applicant has allegedly refused to collect.

5. The Applicant avers that the foregoing is a formal admission that the Respondent owes the Applicant money and the same ought to be released forthwith, pending the hearing and determination of this claim.

6. The Application was disposed of by way of written submissions where the Applicant filed her submissions on 10/2/2020. There is no record of the Respondent's submissions in the Court file.

The Applicant's Submissions

7. The Applicant submits that the Respondent's admission is clear and unconditional hence unequivocal and urges this Court to enter judgment on the admitted amount, pending the hearing and determination of this suit.

8. She relies on the case of **Ideal Ceramics Limited vs. Suraya Property Group Limited HCCC 408 of 2016 [Unreported]** where the Court observed as follows:-

“The law on summary procedure vide a judgment on admission is now relatively clear. The purpose of the law laid out under Order 13 of the Civil Procedure Rules is to ensure that a party whose entitlement is evidently due and admitted does not wait for determination by the court of a non-existent question. It is undesirable to litigate when there is no question or issue of fact or

law. The summary process in this regard assists in ensuring that unnecessary costs and delays are not invited.”

9. She further relies on the case of Cassam vs. Sachania [1982] eKLR where the Court held that such discretion is to be exercised only in cases where the admission, whether express or implied, is plain, clear, unconditional, obvious and unambiguous.

10. I have examined the averments of the Claimant/Applicant herein and for which there is no rebuttal from the Respondent.

11. I therefore allow the application and enter judgement for the Claimant on the admitted part of the Claim for Kshs.543,942/=.

12. Costs in the cause.

Dated and delivered in Chambers via zoom this 28th day of May, 2020.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Juma holding brief Ashioya for Claimant – Present

Respondent – Absent