



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT KISUMU

CAUSE NO. 325 OF 2016

WILLIAM LIKUYI OMBONYA.....CLAIMANT

V

ABDUL KADIR T/A MOHAMMADI GLASS AND HARDWARE.....RESPONDENT

RULING

1. The Court delivered Judgment on 9 October 2019 in which the Claimant was awarded Kshs 184,382 together with costs and interest.
2. On 23 September 2020, the Respondent filed a Motion seeking orders
 1. THAT this Honourable Court may be pleased to review its Judgment dated 9th October 2019.
 2. THAT the costs of this application be provided for.
3. The Claimant filed a replying affidavit in opposition to the Motion on 16 November 2020.
4. When the parties appeared in Court for directions on 24 November 2020, the parties were directed to file and exchange submissions.
5. The Respondent filed his submissions on 27 November 2020 while the Claimant's submissions were not on record by the agreed timeline of 4 December 2020.
6. The primary ground advanced by the Respondent in seeking a review of the judgment was that in the course of the proceedings he had made some payments to the Claimant which payments were not factored in the Judgment.
7. Opposing the application, the Claimant contended that there was a delay as the Motion had been made 1-year after the Judgment and that the decretal sum had been settled fully.
8. The Court has considered the Motion, affidavits and submissions.
9. The Respondent did not explain why he was moving the Court after 1-year. Without explanation, the Court finds inordinate delay disentitling the Respondent from the order sought.
10. Further, although asserting that partial payment had been made before Judgment and that the same had not been factored, the Respondent did not provide an iota of proof of the payment.
11. The Court finds no merit in the Motion dated 22 September 2020. It is dismissed with costs to the Claimant.

Delivered through Microsoft teams, dated and signed in Kisumu on this 11th day of December 2020.

Radido Stephen

Judge

Appearances

For Claimant M.I. Wafula & Co. Advocates

For Respondent Adiso & Co. Advocates

Court Assistant Chrispo Aura