



**REPUBLIC OF KENYA**

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

**AT NAIROBI**

**CAUSE NO 2372 OF 2012**

**SAMUEL OCHIENG LANG'O.....CLAIMANT**

**VERSUS**

**MAYA DUTY FREE LTD.....RESPONDENT**

**RULING**

1. By a motion dated 13<sup>th</sup> September, 2018 the claimant application sought the order of this court to set aside its previous order made on 18<sup>th</sup> April, 2018 dismissing the suit for non-attendance.
2. The application was opposed by the respondent who filed a replying affidavit through one Sheila Mbogo. A dismissal for non-attendance is a matter for the discretion of the court and where good cause is shown or the court in the interest of having the claim decided on merit would allow the application. No amount of prejudice incapable of compensation by an order on costs would be occasioned to the respondent if the application of such a nature were allowed.
3. The court therefore allows the application and hereby directs that the parties cause the file to be mentioned at the earliest opportunity before the Deputy Registrar for allocation of a hearing date.
4. It is so ordered.

Dated at Nairobi this 8<sup>th</sup> day of February, 2019

**Abuodha Jorum Nelson**

**Judge**

Delivered this 8<sup>th</sup> day of February, 2019

**Abuodha Jorum Nelson**

**Judge**

**In the presence of:-**

.....for the Claimant and

.....for the Respondent.

**Abuodha J. N.**

**Judge**