



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

MISCELLANEOUS APPLICATION NO. 12 OF 2018

(Before Hon. Justice Mathews N. Nduma)

NAPHTALY OMIDO.....APPLICANT

VERSUS

THE SECRETARY TO THE BOARD OF MANAGEMENT

NAMUNDERA MIXED SECONDARY SCHOOL.....RESPONDENT

RULING

1. The applicant filed an application dated 30th April 2018 on 6th July 2018 seeking to be granted leave to file an appeal out of time against the verdict of the respondent dated 22nd May 2009.
2. The court had in a ruling dated 15th March 2018 held the dispute between the claimant and the respondent was resjudicata having been determined by Njagi J. in Kakamega JR NO. 7 of 2016.
3. The applicant filed Misc. application No. 21 of 2018 seeking to stop taxation of the bill of costs filed on 16th April 2018.
4. On 14th October 2018, the court held that there was no valid appeal against the decision of Kakamega High Court and there was no merit in stopping the taxation of the bill of costs.
5. The applicant filed a further application on 19th November 2018 seeking to stop the taxation of the bill of costs on the grounds that the applicant has appealed the ruling delivered on 4th October 2018.
6. There is no notice of appeal attached to the application against the ruling of the court delivered on 4th October 2018.
7. The notice of appeal is said to have been filed at the Court of Appeal on 19th November 2018 more than 14 days provided under *Rule 75 (2) of the Court of Appeal Rules* after the ruling of the court delivered on 14th October 2018.
8. The applicant has not alluded to any application for extension of time at the Court of Appeal in terms of *Section 4 of the Court of Appeal Rules*.
9. Simply put, this court has no evidence of any appeal noted by the applicant.
10. In any event, the court is not persuaded that the intended appeal (if at all) would be rendered nugatory if the bill of costs filed on 16th April 2018 is taxed by the taxing master. The application lacks merit and is dismissed.

Ruling Dated, Signed and delivered this 7th day of March, 2019

Mathews N. Nduma

Judge

Appearances

Mr. Anguo for the respondent

Chrispo – Court Clerk