



REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT MOMBASA

CAUSE NUMBER 911 OF 2016

BETWEEN

ALRED IMBWAGA MUSUNGU.....CLAIMANT

VERSUS

PROTECTIVE CUSTODY LIMITED.....RESPONDENT

*Rika J*

*Court Assistant: Benjamin Kombe*

*Asige Keverenge & Anyanzwa Advocates for the Claimant*

*Oduor Simiyu & Company Advocates for the Respondent*

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**JUDGMENT**

1. Judgment was delivered in favour of the Claimant, in the sum of Kshs. 1,149,700, on 24<sup>th</sup> October 2017.
2. Judgment followed *ex parte* proceedings, the Respondent having failed to file Response, and attend Court when required to do so, under the E&LRC (Procedure) Rules, 2016.
3. In a Ruling made on 17<sup>th</sup> May 2018, the Court, upon application of the Respondent, set aside *ex parte* Judgement, and allowed the Respondent to participate in fresh proceedings.
4. The Claim was scheduled for mention on 5<sup>th</sup> July 2018 with a view to fixing date for the fresh hearing. The Claimant attended Court. The Respondent did not. It was again fixed for mention on 25<sup>th</sup> October 2018 for the same reason. The Respondent once again did not attend Court. Hearing was scheduled for 6<sup>th</sup> March 2019 when the Claimant was heard, in the presence of the Advocates for the respective Parties.
5. By consent, hearing of the Respondent's case was scheduled for 26<sup>th</sup> March 2019. The Claimant's Advocate attended Court on 26<sup>th</sup> March 2019. The Respondent and its Advocates did not. Proceedings were marked as closed. The Claim was last mentioned on 13<sup>th</sup> June 2019, when Parties confirmed filing of their Submissions.

**The Court Finds:-**

6. For the second time, the Respondent has failed to give evidence, when offered the opportunity to do so.
7. The evidence given by the Claimant remains uncontradicted. The Pleadings filed by the Respondent have no support in evidence.
8. There is nothing in the fresh hearing, to justify altering the findings and conclusion of the Court made in the Judgment of 24<sup>th</sup> October 2017.

IT IS ORDRED:-

a) *Judgement is entered in favour of the Claimant, in term stated in the Judgment delivered on 24<sup>th</sup> October, 2017.*

Dated and delivered at Mombasa this 30<sup>th</sup> day of July 2019.

James Rika

Judge