



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 1215 OF 2015

ERIC MWAU DAVID.....CLAIMANT

VERSUS

THE TRUSTEES AND REGISTERED TRUSTEES

SCOTT CHRISTIAN UNIVERSITY.....RESPONDENT

RULING

1. On 2 July 2018, the Court gave directions during pre-trial session which included the filing of an *Amended Statement of Claim* by the Claimant, after his application.
2. The Claimant did not file an *Amended Statement of Claim*.
3. On 27 March 2019, the Court directed that a *Notice to Show Cause* why the suit should not be dismissed be issued with a return date of 4 April 2019.
4. When the Cause was called out on 4 April 2019, the Claimant's advocate sought for more time to file and serve an *Amended Memorandum of Claim*. No reasons were given why the directions/orders of 2 July 2018 had not been complied with.
5. Equally, there was no affidavit in response to the *Notice to Show Cause*.
6. The Court subsequently dismissed the Cause.
7. On 2 May 2019, the Claimant filed a motion seeking an order reinstating the dismissed suit on the grounds that the *Notice to Show Cause* was served upon the previous advocates on record; that the current advocate on record was only informed on 3 April 2019 about the *Notice to Show Cause* and therefore did not have the opportunity to prepare an affidavit and that the mistake of an advocate should not be visited upon a litigant.
8. Despite service, the Respondent did not file any response to the application.
9. The facts presented not being controverted, and the motion not being opposed, the Court will allow the application on condition that
 - (i) An *Amended Statement of Claim* is filed and served on or before 25 September 2019.
 - (ii) In default, the Cause will stand dismissed as earlier ordered without any further reference to the Court.
10. No order as to costs.

Delivered, dated and signed in Nairobi on this 20th day of September 2019.

Radido Stephen

Judge

Appearances

For Claimant Ms. Makori instructed by Mogeni & Co. Advocates

For Respondent A. Masika & Co. Advocates

Court Assistant Lindsey