



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**  
**CAUSE NO. 1670 OF 2014**

**PETER OKECH OKOTH.....CLAIMANT**

**v**

**AL-MEEZAN EXHIBITION LTD.....1<sup>st</sup> RESPONDENT**

**KHELJI MUHAMMAD IDRIS.....2<sup>nd</sup> RESPONDENT**

**ABDUL AZIZI.....3<sup>rd</sup> RESPONDENT**

**RULING**

1. The Claimant instituted legal proceedings against the Respondents on 25 September 2014 alleging unfair termination of employment and breach of contract/statute.
2. The 3<sup>rd</sup> Respondent entered Appearance through the firm of Gikunda Miriti & Co. Advocates on 8 October 2014.
3. The Claimant then caused the suit to be set down for hearing severally but due to various reasons, the hearings did not proceed.
4. On 17 January 2019, the Court differently constituted declined to proceed with the hearing because there was no evidence that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents had been served.
5. When the Cause came up for hearing again on 6 November 2019, the Claimant indicated that he was ready.
6. The Court then perused the record and found no evidence at all that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents had been served with *Notice of Summons*.
7. The Claimant insisted that service had been effected and that an affidavit of service could be filed. The Court directed the filing of the affidavit of service.
8. The Claimant filed the affidavit of service on 7 November 2019 wherein it was deposed that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents were served, accepted the service but declined to endorse on copies thereof.
9. There has been no explanation why it took the Claimant so long to file an affidavit of service despite his eagerness to prosecute the Cause and/or why no affidavit was filed despite the Court's misgivings on 17 January 2019.
10. The Court is therefore unable to find that the purported service upon the 1<sup>st</sup> and 2<sup>nd</sup> Respondents were satisfactory.
11. The Claimant is directed to serve the 1<sup>st</sup> and 2<sup>nd</sup> Respondents afresh.
12. No order as to costs.

**Delivered, dated and signed in Nairobi on this 8<sup>th</sup> day of November 2019.**

**Radido Stephen**

**Judge**

**Appearances**

For Claimant Mr. Nyabena instructed by Nyabena Nyakundi & Co. Advocates

1<sup>st</sup> & 2<sup>nd</sup> Respondents did not appear

For 3<sup>rd</sup> Respondent Mr. Gikunda instructed by Gikunda Miriti & Co. Advocates

Court Assistant Lindsey