



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 1725 OF 2013

CONSOLIDATED WITH CAUSE NO. 1726 OF 2013

(Before Hon. Justice Mathews N. Nduma)

REGINA NDUKU KYALO & 24 OTHERS.....CLAIMANTS

VERSUS

INDU FARM EXPORT PROCESSING

ZONE LIMITED [IN LIQUIDATION]..... RESPONDENT

MARA EPZ LIMITEDOBJECTOR

RULING

1. The application dated 4th August 2016, by the objector was compromised by the consent entered into by the objector, the respondents and the Claimants and recorded in court on 30th August, 2016 with regard to the proclaimed goods.
2. With regard to the prayer to set aside the order of the court made against the Respondent on 24th November, 2015 the application is misconceived and has no basis for the reasons that –
 - (i) The Respondent was at all material times aware of this suit.
 - (ii) FKE acted for respondent until it withdrew from the suit for lack of instructions.
 - (iii) The respondent was served with the hearing notice of the application and the same was allowed upon hearing *ex parte* by the court.
 - (iv) The respondent has to date not filed any response to the claim and the Memorandum of Claim remain unchallenged.
 - (v) The suit was filed in 2013, and the respondent all along delayed the hearing and disposal of the case. The respondent is presently attempting further delay of this matter.
3. Security for judgment was deposited *a priori* upon admission that the respondent was closing down and in terms of the consent, the company was allowed to be sold off to a third party by a receiver manager. Furthermore, these issues were overtaken by the consent by the parties.
4. Accordingly, the application is dismissed with costs.

Dated and Signed in Kisumu this 5th day of February, 2018

Mathews N. Nduma

Judge

Delivered and signed in Nairobi this 16th day of February, 2018

Maureen Onyango

Judge

Appearances

Namada for Claimant/Respondent

Nyaribo for Respondent

Anne Njung'e – Court Clerk