

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT MOMBASA

CAUSE NUMBER 474 OF 2017

BETWEEN

KENYA ENGINEERING WORKERS UNION.....CLAIMANT

VERSUS

APEX STEEL LIMITED.....RESPONDENT

RULING

1. The Claimant Union filed an Application on 28th June 2017, asking the Court to order the Respondent to remit trade union dues; and to cease victimization of Claimant's Members on account of their association with the Claimant.
2. The Application, together with the Hearing Notice, is shown to have been received by the Respondent on 6th July 2017.
3. Hearing was scheduled for 24th July 2017. The Respondent did not attend Court for the hearing, and had not by this date, filed any response to the Application.
4. Hearing proceeded, and Orders issued as prayed, *ex parte*, on 24th July 2017.
5. The Respondent has, through an Application dated 21st August 2017, asked the Court to set aside the *ex parte* Orders, and allow the Parties to be heard *inter partes*.
6. The Application is supported by the Affidavit of Respondent's Group Resource Manager Hezrone Rachilo, sworn on 21st August 2017.
7. Parties were heard on 13th November 2017.

The Court Finds:-

8. There are weighty grounds, with respect to the substance and history of the dispute, shown in the Affidavit of Hezrone Rachilo, to justify setting aside of the *ex parte* Orders.
9. There is however no adequate explanation why the Respondent failed to attend Court, and respond to the Application filed by the Claimant on 28th June 2017, when required by the Court to do so. Why did the Respondent drag its feet in instructing Counsel?
10. The Court shall allow the Application, with costs of Kshs. 15,000 to be paid by the Respondent to the Claimant, before the Respondent is granted further audience in the dispute. It is so ordered.

Dated and delivered at Mombasa this 15th day of February 2018.

James Rika

Judge