



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 653 OF 2012

(Before Hon. Justice Mathews N. Nduma)

JOYCE N. SIMITU.....CLAIMANT/RESPONDENT

VERSUS

STEPHEN O. MALLOWAH.....1ST RESPONDENT/APPLICANT

LAWRENCE M. BOKORO.....2ND RESPONDENT/APPLICANT

ANTI-COUNTERFEIT AGENCY....3RD RESPONDENT/APPLICANT

RULING

1. Before court is an application dated 20th February, 2017 seeking the court to set aside its order to close the Claimant's case, before he was cross-examined by counsel for the Respondent Mr. Munyua Ezekiel Njagi, of Rachier & Amollo Advocates and closure of defence case in default of attendance.
2. The court has carefully considered the application and the replying affidavit and is satisfied that, counsel for the Respondent developed abdominal complications on the eve of the hearing being the night of 15th January, 2017 and was rushed to hospital on 16th January, 2017 and admitted.
3. That in the circumstances he was unable not only to attend court as scheduled but could also not reach his office to arrange for alternative attendance by his colleagues.
4. Accordingly, the court varies its orders of 16th January, 2017 and re-opens the case so that the advocate for the Respondent/applicant may cross-examine the Claimant and present the Respondent's case. The directions to file submissions are stayed and to await closure of defence case.
5. Accordingly, the application succeeds. Case is re-opened and the Principal Judge to allocate the matter to any other Judge for continued hearing.
6. Costs in the cause.

Dated and Signed in Kisumu this 24th day of April, 2018

Mathews N. Nduma

Judge

Delivered and signed in Nairobi this 30th day of May, 2018

Maureen Onyango

Judge

Appearances

Rachier & Amollo Advocates for Respondents/Applicants

M/s. J. A. Guserwa & Co. Advocates for Claimant/Respondent

Anne Njung'e – Court Clerk