



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 1464 OF 2013

REUBEN MWILU KAKEWA.....CLAIMANT

v

MIDROCK WATER DRILING LTD.....RESPONDENT

RULING

1. The Claimant instituted legal proceedings against the Respondent on 9 September 2013 and he stated the issues in dispute as

(a) Unfair termination/dismissal

(b) No-payment of terminal dues & compensatory damages.

2. When the Cause came up for hearing on 22 October 2015, Mr. Wathome for the Claimant secured an adjournment on the basis that he had been unable to trace the Claimant.

3. The Court directed the Claimant to pay adjournment fees (there is no receipt on file to confirm the fees were paid).

4. The Cause next came up for hearing on 23 October 2017 and it was taken out of the hearing list with another order that adjournment fees of Kshs 1,400/- be paid before any further steps (there is no receipt to confirm compliance).

5. It is not clear from the record whether the Claimant and/or his advocate were in Court during that appearance.

6. On 18 January 2018, the Deputy Registrar caused the file to be mentioned before her on 8 March 2018.

7. During the mention, the Cause was set for a further mention on 12 March 2018, and during this appearance, Mr. Wathome indicated that he intended to withdraw the Cause.

8. The Deputy Registrar set mention for 26 March 2018 to confirm the withdrawal. Mr. Wathome did not attend Court on 26 March 2018, and on 22 May 2018, a notice was sent to the Claimant to appear in Court on 12 June 2018.

9. The parties did not attend, and the Court directed that a Notice to Show Cause be issued with a return date of 26 June 2018.

10. When the Cause was called out on 26 June 2018, Mr. Muigai for the Claimant indicated from the bar that there had been problems communicating with the Claimant and sought for more time.

11. Ideally, a party should file an affidavit in response to a notice to show cause if the explanations are factual in nature. None was filed in the present case.

12. Twice, the Claimant was ordered to pay adjournment fees. He did not comply.

13. Considering the two factors, the age of the Cause, the apparent disinterest on the part of the Claimant to follow up with his advocate on the status of his case and the indication by the Claimant's advocate before the Deputy Registrar to have the Cause withdrawn, the Court has no option but to dismiss the Cause herein for want of prosecution and failure to comply with court orders.

Delivered, dated and signed in Nairobi on this 29th day of June 2018.

RADIDO STEPHEN

JUDGE

Appearances

For Claimant Mr. Muigai instructed by Namada & Co. Advocates

Court Assistant Salome