



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT ELDORET**

**CAUSE NO.156 OF 2017**

**[Formerly Cause No.481 of 2016 (Nakuru)]**

**RICHARD DERICK NYANE.....CLAIMANT**

**VERSUS**

**WESTERN STEEL MILLS LTD.....1<sup>ST</sup> RESPONDENT**

**JOKALI HANDLING SERVICES LTD.....2<sup>ND</sup> RESPONDENT**

**DIRECTIONS**

Judgement is due in this matter following proceedings and hearing of the claimant's case on 12<sup>th</sup> July, 2018. Such judgement shall not be delivered for the reasons addressed in the directions hereunder:

Upon retreat to write judgement, going through the file I noted several lapses herein which shall be necessary for the court to address before judgement is delivered.

On 5<sup>th</sup> December, 2016 the claimant filed the Memorandum of Claim. Summons were obtained herein and the respondents served on 30<sup>th</sup> January, 2017 and Affidavit of Service was filed on 6<sup>th</sup> July, 2018. It is not clarified by the Process Server as to who received the summons and for which respondent as there are two respondents herein.

The Claim herein had been filed in Nakuru, ELRC registry and on 21<sup>st</sup> June, 2017 the court directed the movement of the file to the Eldoret, ELRC registry and the Deputy Registrar to notify the parties on the change and movement. Such notice is not on file. I take it the respondents were not notified of the movement of the file from the registry in Nakuru to Eldoret. The Deputy Registrar did not attend as directed by the Judge at Nakuru, ELRC.

Noting service of summons were effected on 30<sup>th</sup> July, 2017 and the court directions on 21<sup>st</sup> June, 2017 and there being no evidence that that respondents received any notification on the changes, it would procedurally serve injustice to proceed with judgement taking the obvious lapse into account. As this is a court of justice and fundamentally set to serve equity and ensure the employer is aware of proceedings on-going before the court, it is imperative that the proceedings now taking place be brought to the attention of the respondents.

The judgement due shall not issue.

Proceedings are put in abeyance until the respondents are served with a mention notice to attend proceedings at Eldoret, for the court to direct as appropriate.

Where there is no attendance, the court shall issue directions as appropriate.

**Taking the above into account, the matter shall be mentioned in 30 days and on 30<sup>th</sup> October, 2018. Both respondents to be served with mention notices to attend for the court directions.**

**Delivered in open court at Eldoret this 26<sup>th</sup> day of September, 2018.**

**M.MBARU JUDGE**

**In the presence of:**

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