



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS OCCURT OF KENYA

AT ELDORET

CAUSE NO.357 OF 2017

[Formerly Cause No.53 of 207 – Nakuru]

THOMAS GEOFREY KWEYU.....CLAIMANT

VERSUS

ABRAHAM KIPTANUI T/A

TARAKWA RURNITURES LTD.....1ST RESPONDENT

TARAKWA FURNITURES LTD.....2ND RESPONDENT

DIRECTIONS

Judgement is due in this matter but shall not issue for the following reasons.

Upon going through the file in preparation for judgement I noted that on 17th February, 2017 the claimant filed the Memorandum of Claim under Cause No.53 of 2017 at Nakuru, ELRC registry. On 10th October, 2017 the matter was transferred to the Eldoret, ELRC registry.

The court sitting at Nakuru directed the Deputy Registrar to inform the parties on the movement of the file. This has not been done to date. There is no record of this Notice to the Parties.

Upon filing the Claim, the returns filed by the claimant indicate that on 10th November, 2017 a notice was issued to the respondent to attend court and the same was accepted but the respondent officer declined to sign in acknowledgement. Such service was done under Cause No.53 of 2017, Nakuru. By this date, the file had since been moved to the Eldoret, ELRC registry and hearing directions given.

I take it the notice issued to the respondent to attend at Nakuru, ELRC was by error and which error taken in context, the respondent are now not aware that the file herein has since moved to a different location and may not have had a fair chance to attend.

On the basis of returns above the claimant was allocated a hearing date, Formal proof of his case on the basis that the respondent had not entered appearance, defence not filed and fundamentally that there was service upon the respondent and at the due hearing date the respondent failed to attend.

Noting the lapse in the Deputy Registrar sending the notice stating changes in terms of which court and registrar the respondent was to attend and further noting the respondent was served to attend hearing at Nakuru and not Eldoret, the hearing ex parte and which proceeded on 9th July, 2018 is set aside.

Noting the above the following directions issues;

- a) Proceedings leading to close on claimant's case on 9th July, 2018 are hereby set aside;**
- b) Serve the respondents with summons and Mention Notice;**
- c) Mention on 15th October, 2018 for taking directions.**

These directions have issued at Eldoret this 24th day of September, 2018.

M. MBARU JUDGE

Present: