

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 1531 OF 2014

WILBERFORCE ANDREW OLANDO.....CLAIMANT

v

JAPA PROTECTION SYSTEMS LIMITED.....RESPONDENT

RULING

1. The Claimant instituted proceedings against the Respondent alleging that the Respondent unlawfully terminated his employment on 22 April 2014, and further that the Respondent was in breach of contract/statute.
2. The Respondent, acting in person, filed a Response on 11 October 2014. On 30 September 2015, the firm of Okatch & Co. Advocates filed a *Notice of Appointment of Advocate* to come on record for the Claimant.
3. When the Cause came up for hearing on 30 July 2018, Mr. Wathome for the Claimant informed the Court that the advocate on record for the Respondent had been struck off, and therefore he had served the Respondent directly. The hearing did not proceed as the Cause could not be reached.
4. On 2 October 2018, the Claimant caused the Registry to schedule the hearing for 18 October 2018.
5. On 18 October 2018, Mr. Mulaku informed the Court that the Cause was coming up for formal proof and on that basis the Court allowed the hearing to proceed.
6. Regrettably, while perusing the file for purposes of preparing a judgment, the Court noted that there was no affidavit of service on record to demonstrate that a hearing notice had been served upon the Respondent (what was on record was a notice dated 22 September 2018 inviting the Respondent to attend before the Registry on 2 October 2018 with a view to fixing a hearing date. The invitation was purportedly served on the Respondent on the same day).
7. Considering the centrality of the right to be afforded a hearing in our system of justice, the Court *suo moto* sets aside the proceedings of 18 October 2018, and further orders that the Claimant causes a fresh hearing date to be fixed by the registry.

Delivered, dated and signed in Nairobi on this 23rd day of November 2018.

Radido Stephen

Judge

Appearances

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

For Respondent in person

Court Assistant Mambo