

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA

CAUSE NO 545 OF 2017

SULTAN KARMALI HASHAM.....CLAIMANT

VS

ASIF JETHA T/A NEW OCEAN TRANSPORTERS LTD.....RESPONDENT

RULING

1. This ruling responds to an application brought by Asif Jetha by way of Notice of Motion dated 24th September 2018. The application, which is supported by Jetha's own affidavit seeks orders to strike out the Claimant's claim as against Asif Jetha on the basis that it discloses no reasonable cause of action against him.
2. The grounds on the face of the application are as follows:
 - a) The suit is unsustainable against Asif Jetha as an individual cannot and does not trade as a limited liability company;
 - b) A limited liability company is an independent legal entity capable of suing and being sued;
 - c) The Statement of Claim in paragraph 3 alleges that the employer is a limited company and not an individual and hence no cause of action against the said Asif Jetha has been established.
3. The Claimant did not oppose the application. Further, in his pleadings filed in court he states that he was an employee of New Ocean Transporters Ltd. The Court therefore found no reason for joinder of Asif Jetha in these proceedings.
4. Consequently, the name of Asif Jetha is struck off and the Claimant is directed to amend his claim accordingly.
5. The costs of the application will be in the cause.
6. Orders accordingly.

DATED SIGNED AND DELIVERED AT MOMBASA THIS 13TH DAY OF DECEMBER 2018

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JUDGE

Appearance:

Miss Mutune for the Applicant

No appearance for the Claimant/Respondent