



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU**

**CAUSE NO. 573 B OF 2014**

**KENYA PLANTATION & AGRICULTURAL WORKERS UNION.....CLAIMANT**

**v**

**SUNRIPE (1976) LIMITED.....RESPONDENT**

**JUDGMENT**

1. The Kenya Plantation & Agricultural Workers Union (Union) sued Sunripe (1976) Ltd (Respondent) on 19 November 2014 and the issue in dispute was stated as

*Unlawful, illegal and/or unfair dismissal of Joel Maelo Okwayo.*

2. The Union sought reinstatement and terminal dues/benefits for the Grievant including gratuity, income during period of dismissal, leave travelling allowance and compensation.

3. In a Statement of Reply filed in Court on 19 December 2014, the Respondent contended that the Grievant was dismissed on account of gross misconduct and denied that the summary dismissal of the Grievant was unfair.

4. On 23 November 2015, the Union filed an *Amended Memorandum of Claim* and on 18 January 2017, the Court scheduled the Cause for hearing on 23 March 2017. The Union was directed to serve a hearing notice.

5. When the Cause was called out for hearing on 23 March 2017, the Union was represented by its Assistant Secretary General, while the Respondent was not present/represented.

6. On record was an affidavit of service sworn by Hebron Odhiambo Omolo and filed in Court on the same morning attesting to service of a hearing notice. The Respondent had acknowledged the service.

7. The Court being satisfied with service of the hearing notice allowed the hearing to proceed, and Mr. Khisa representing the Union informed the Court that the Union would rely on the record/documents filed and thereafter he made brief oral submissions.

8. The Court reserved judgment to today.

9. Rule 21 of the Employment and Labour Relations Court (Procedure) Rules, 2016 allow the Court to determine a suit on the basis of the pleadings, affidavits, documents filed and submissions made by the parties.

10. What the Court has before it are the pleadings, documents filed and submissions and a verifying

