



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT MOMBASA

CAUSE NUMBER 35 OF 2016

BETWEEN

SYLVESTER CHARO DANIEL.....
CLAIMANT

VERSUS

CENTRAL ELECTRICAL INTERNATIONAL LIMITED.....RESPONDENT

RULING

1. Judgment was delivered in favour of the Claimant on 24th February 2017. Hearing proceeded in the absence of the Respondent.
2. The Respondent filed an Application dated 29th March 2017 seeking to have orders that: the Law Firm of Muumbi & Company Advocates comes on record for the Respondent, in place of the Law Firm of Omari Muumbi & Kiragu; Judgment delivered on 24th February 2017 is stayed pending hearing and determination of the Application *inter partes*; and Judgment is set aside and the Respondent allowed to defend the Claim.
3. The Claimant filed his Replying Affidavit on 8th April 2017. Parties agreed on 17th July 2017, to have the Application considered and determined on the strength of the record.

The Court Finds:-

4. There is sufficient material on record showing the Respondent was served with all Court Processes leading to the Judgment of 24th February 2017.
5. Service was effected on both the Advocates on record and on the Respondent in person. All service was acknowledged. The change in the partnership of the Law Firm representing the Respondent can hardly be an acceptable reason, for Respondent's failure to participate in the proceedings. If the Respondent feels aggrieved, it has the option of pursuing remedy against its Advocates.
6. The Court does not see any grounds to revisit its Judgment.
7. As for grant of leave to the Law Firm of Muumbi & Company Advocates, the Court sees no reasons why leave should not be granted. Parties must not be stifled in their right of legal representation, and access to justice. For whatever it is worth, leave is granted as prayed.

IN SUM IT IS ORDERED:-

(a) The prayer for stay of execution is declined.

(b) The prayers for setting aside of Judgment and for leave to defend are declined.

(c) The Law Firm of Muumbi & Company Advocates is granted leave to replace the Law Firm of Omari Muumbi & Kiragu in representation of the Respondent.

(d) Costs of the Application to the Claimant.

Dated and delivered at Mombasa this 15th day of December 2017.

James Rika

Judge