

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS
COURT OF KENYA AT NAIROBI
CAUSE NO. 1514 OF 2015

JOHN WAWERU GITHIANU.....CLAIMANT

VERSUS

SOLSTICE IMPORTERS AND EXPORTERS LIMITED.....RESPONDENT

RULING

1. The claimant seeks security by the respondent by depositing the entire claimed amount in court plus estimated costs of Kshs.150,000 pending the hearing of the claim vide a notice of motion dated 27th August 2015.
2. The application is predicted on the ground set out on the face of the application that the respondent plans to close its business and leave the jurisdiction of the court latest by November 2015 by which time it is not likely that this chance will have been heard and determined.
3. The matter was certified urgent and was served on the respondent. The respondent opposes the application vide an affidavit of Mr. Lola Oke, a Director of respondent company who deposes *inter alia*, that the allegations that the respondent company intends to relocate is false and malicious and has no basis whatsoever. The deponent has attached a letter of recommendation written by the claimant for an employee of the respondent dated 29th May 2015 in which a similar allegation is made by the claimant.
4. The application is supported by an affidavit of the claimant in which there is no averment at all justifying the bold allegation of intended closure and re-allocation of the respondent company from the jurisdiction of the court. No documentary evidence is attached to the application indicating such intended closure and relocation by the respondent.
5. It is the court's considered view and on the authority in the High Court at **Malindi Civil suit number 17 of 2010 Mijikenda General Building contractor Vs. Afrakani Limited and another**, that the application has no factual or legal basis.
6. The respondent is a legal person, registered in Kenya and there is no iota of evidence that the company is in the process of winding up and (or deregistration.)
7. The application is dismissed with costs to the respondent.

Dated and Delivered at Nairobi this 22nd day of January 2016.

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE

