



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
CAUSE NO. 313 OF 2014

KENYA PLANTATION & AGRICULTURAL

WORKERS UNION

CLAIMANT

v

WILHAN (K) LTD

1st RESPONDENT

RIFT VALLEY VEGETABLES

2nd RESPONDENT

RULING NO. 2

1. The Kenya Plantation & Agricultural Workers Union (Union) moved Court under certificate of urgency on 14 July 2014 seeking several restraining orders against the Respondents.
2. The motion was dispensed with when the Court delivered a ruling on 18 December 2014.
3. Although the Union was aware of the date for ruling, it did not send a representative to take the ruling. The Respondent was represented by Ms. Wachira who held brief for Mr. Malebe.
4. Immediately after the ruling, the Court fixed the hearing for 30 November 2015, and the Deputy Registrar was directed to notify the Union of the hearing date.
5. Come 30 November 2015, Mr. Khisa, (a Union official) who is on record for the Union was not in Court. The Respondents were also not represented.
6. Mr. Muli, a Legal Officer with the Union informed the Court that he had seen the matter in the Cause list that morning and that Mr. Khisa was not aware that it was coming up for hearing. He sought another hearing date.
7. The Court directed that it would deliver a ruling today. This was to enable the Court go through the record.
8. There is nothing on file to suggest that the Deputy Registrar complied with the Court's directive to notify the Union of the hearing date.
9. The Union's failure to send a representative therefore may be excusable but it does not detract from the fact that had the Union been diligent and attended the delivery of the ruling, or made up follow up, it ought to have been appraised of the status of its claim.
10. It is always in the interest of justice and parties to litigation to ensure that suits are prosecuted and determined expeditiously and more so in cases such as the present one where industrial peace is a primary concern.
11. Expeditious determination of such disputes becomes even more imperative where a party moved to Court under certificate of urgency.
12. The Court therefore directs that a mutually convenient date be fixed immediately after the delivery of this ruling for the hearing of the Cause.
13. The Union to pay forthwith costs (adjournment) attendant to hearing which had been scheduled

for 30 November 2015.

Delivered, dated and signed in Nakuru on this 5th day of February 2016.

Radido Stephen

Judge

Appearances

Kenya Plantation & Agricultural Workers Union Claimant

Wekesa & Simiyu Advocates for Respondents

Nixon Court Assistant