



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT**  
**NAKURU**

**CAUSE NO. 75 OF 2014**

**(Originally Nakuru Cause CMCC No. 1063 of 2003)**

**DAVID MURIUKI NGARE**

**CLAIMANT**

**v**

**SPIN KNIT LIMITED**

**RESPONDENT**

**RULING**

1. The Claimant's case was closed on 14 April 2015 and because the Respondent was not ready, its case was adjourned to 20 April 2015.
2. However on 20 April 2015, the parties indicated that they were negotiating for an out of court settlement and the Court allowed them to negotiate.
3. No settlement was reached and on 24 April 2015 the Claimant's advocate on record sought to withdraw.
4. The Court allowed the application and the Claimant was given time to instruct another advocate.
5. On 26 February 2016, after several mentions to confirm whether the Claimant had instructed an advocate, the Court fixed the hearing of the Respondent's case for 13 July 2016.  
The date was fixed in the presence of the Respondent's advocate.
6. When the Cause was called out for hearing on 13 July 2016, the Claimant informed the Court that he was ready to proceed with the hearing.
7. The Respondent was not represented and the Court had the file placed aside until 10.35 am. For unknown reasons, the Claimant was not in Court at 10.35am, and the Court directed that it would deliver a ruling today.
8. The finalisation of this Cause has been frustrated by the failure of the Claimant to instruct an advocate. The record bears out that a firm of advocate filed a Notice of Change on 3 March 2016 but there was no explanation why there was no representation on 13 July 2016.
9. There was equally no explanation why the Respondent's advocate was not in Court.

10. In the circumstances, the Court is constrained to order that the Respondent's case be deemed as closed and it is so ordered.

11. The Court will embark on preparation and delivery of judgment.

**Delivered, dated and signed in Nakuru on this 22<sup>nd</sup> day of July 2016.**

**Radido Stephen**

**Judge**

**Appearances**

For Claimant            Munene Chege & Co. Advocates

For Respondent        Mukite Musangi & Co. Advocates

Court Assistant        Nixon