



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
MISC. APPLICATION NO. 7 OF 2016

WALTER WARINDA WANINI	1ST APPLICANT
PAUL KIPTERER KOECH	2ND APPLICANT
MASAKA MWANGALA	3RD APPLICANT

v

KENYA RAILWAYS CORPORATION	RESPONDENT
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RULING

1. The 3 applicants moved Court on 15 July 2015 under certificate of urgency seeking orders
 1. THAT the service of the application be dispensed with in the first instance.
 2. THAT the Nakuru Chief Magistrate Court Civil Case No. 837 of 1997 be and is hereby transferred to this Honourable Court for judgment.
 3. THAT cost of this application be in the cause.
2. The Court directed the application to be served upon the Respondent and set 6 September 2016 for *inter partes* hearing.
3. When the application was called out for hearing on 6 September 2016, the applicants, their advocate on record and the Respondent were not in Court and the Court set ruling for today.
4. According to grounds on the face of the application and the supporting affidavit thereto, the hearing of the suit sought to be transferred was concluded before the subordinate Court.
5. Because the subordinate Court had jurisdiction over causes of action arising out of the employment relationship under the common law at the material time i.e. before the establishment of this Court and considering that the parties had been heard, it behoves the subordinate Court to prepare and render a judgment.
6. The legal framework establishing this Court did not oust jurisdiction of competent Courts *ante* the establishment where the said Courts had been seized of jurisdiction and where a suit had been heard and was only pending judgment.

7. The Court therefore finds no merit in the present application.

8. Further, the application is for dismissal because there is nothing to suggest that the applicants complied with the Court orders of 19 July 2016.

9. The failure by the applicants or their advocate on record to appear in Court on 6 September 2016 of itself is also another reason to dismiss the application.

10. The upshot of the foregoing is that the Court dismisses the application dated 14 July 2016 with no order as to costs.

Delivered, dated and signed in Nakuru on this 23rd day of September 2016.

Radido Stephen

Judge

Appearances

For applicants

Mr. Olaly Cheche instructed by Olaly Cheche & Co. Advocates

Court Assistant

Nixon