



REPUBLIC OF KENYA

EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI

CAUSE NO. 440 OF 2015

(Before Hon. Justice Hellen S. Wasilwa on 20th August, 2015)

ANTHONY NDUNG'U GAKUO..... CLAIMANT

VERSUS

BAKER HUGHES EHO LIMITED (KENYA BRANCH)RESPONDENT

RULING

1. The application before court is the one dated 15/6/2015 filed by the Respondents herein where they seek orders in terms of prayers 3 and 4 as follows:

1. ***THAT the Honourable Court be pleased to review its Ruling of 27th May 2015 and set aside the orders made on 27/5/2015.***

2. ***That costs of this application be provided for.***

2. This application is premised on the grounds that:

a. ***This Honourable Court delivered a ruling on 27th May 2015 and ordered that the Respondent/Applicant deposit a sum of Kshs.1 million in court within 30 days from the date of the ruling.***

b. ***The Applicant is aggrieved by the ruling and orders of this Honourable Court.***

c. ***No appeal has been preferred in respect of the ruling and orders of this Honourable Court.***

d. ***The Ruling of this Honourable Court contains mistakes and errors apparent on the face of the record.***

e. ***There are sufficient reasons for reviewing the ruling and orders of this Honourable Court.***

f. ***The application has been brought without unreasonable delay.***

g. ***It is in the interest of justice to grant the reliefs sought.***

3. The Application is supported by the supporting affidavit of Chike Uchendu the Respondents County Operations Manager who depones that the apparent error on the record is that the court had in its ruling indicated that the application had transferred their shareholding to another company, which they have not denied. That also that the Applicant didn't show they own other properties in Kenya or even a local bank account.

4. The Applicants depone that they had in paragraph 8 of their replying affidavit denied transferring their shareholding to another company and in paragraph 43 of annexures, they set out details of bank account and in paragraph 9 and 10 they annexed a list of properties in Kenya., In that regard,

the Applicants aver that the ruling has an error on face of record hence the application for review.

5. The Claimant Respondent opposed this application. They filed the replying affidavit on 24/6/2015 being an affidavit on the Claimant Respondent herein who depones that there is no error on the record. The Respondent also depones that the issues raised in the application were canvassed in the application interpartes and deposed of and so the application is a disguised appeal against the ruling of this court.
6. The apparent error stated to be on record is the fact that the court decided that the Applicants have no bank account in Kenya and have transferred their shareholding to another company. This aspect was considered by this court in its ruling at page 5 and the court relied on documents presented to court at pages 80 to 90 of the application which was a story of proposed sale or take over. The finding of this court was that based on those documents the Applicants, had indeed transferred its shareholding to another company.
7. On issue of the Applicant not having any local bank company – this this court also made a finding that indeed there was no local bank account of the Applicant. In this application, the Applicants have now referred court to documents Annex CU 6 in their reply stating that, they own a local bank account. The document in question is titled Commercial Invoice No. 2011742.
8. I am unable to discern any evidence of a local bank account on the face of it and the Applicants have still not given details of any local bank account they own.
9. It is therefore the finding of this court that there is no error apparent on the face of the record and that the right form for the Applicants to canvas their grievance lies in appeal. I therefore dismiss this application with costs to the Claimant Respondents.

Read in open Court this 20th day of August, 2015

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Kihunjo holding brief for Nyaburu Applicant

No appearance for Respondents