



REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT AT MOMBASA

CAUSE NUMBER 556 OF 2014

BETWEEN

MOSES SAMMY PONDA..... CLAIMANT

VERSUS

IMARIKA SACCO.....RESPONDENT

RULING

The Court has evaluated the submissions by the respective Advocates, and the evidence of Mr. Daniel Safari, given in his affidavit as well as orally in Court today.

The CEO is responsible for the day to day running of his Sacco. He bears the responsibility in ensuring compliance with the orders of the Court. Reinstatement of the Claimant required he is reinstated to the pay roll with full benefits and allocated all duties he was performing previously. This does not seem to have taken place. Ms Opolo candidly submits contempt may have occurred, but that the CEO is not responsible, and that the CEO made attempts at purging the contempt, in his letter of 8<sup>th</sup> July 2015.

This may well be so. The Court notes however, the letter of 8<sup>th</sup> July 2015 was authored by the CEO on the same date he swore his Replying Affidavit.

In all, there is considerable doubt that the Respondent has fully complied with the order for reinstatement, or at the very least, purged contempt which it acknowledges may have occurred.

This said, the Court notes reinstatement of the Claimant was on interim basis, and the main Claim relating to his dismissal is yet to be heard. It is imperative that the main Claim is heard expeditiously, and the orders of interim reinstatement are not made to appear like the final pronouncement of the Court on the matter. In disposing of the application for contempt, the Court makes the following Orders:-

1. ***The Respondent Imarika Sacco is adjudged to be in contempt of Court.***
2. ***The Respondent shall pay a fine of Kshs. 100,000, and the CEO shall ensure the Claimant is reinstated in full, before the Respondent can be granted further audience in this Court.***
3. ***Parties shall endeavour to set down the main claim for hearing.***
4. ***Costs of Kshs. 15,000 for the application on contempt to be paid to the Claimant.***

Dated and delivered at Mombasa this 23<sup>rd</sup> day of September 2015

**James Rika**

**Judge**