



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NAIROBI
CAUSE NUMBER 569 OF 2013

BETWEEN

EDWIN ERICK MANGAU
CLAIMANT

VERSUS

KAMPALA COACH LIMITED
RESPONDENT

RULING

1. The Respondent has not participated in the hearing of this Claim. The Claimant applied and was allowed by the Court, to proceed by way of his pleadings and submissions under Rule 21 of the Industrial Court [Procedure] Rules 2010. He filed those submissions on 19th February 2014. The Court advised the Claimant the Award would be delivered on notice.
2. The Court has not been able to finalize this decision. In the course of preparing the decision, questions have arisen on the representation of the Respondent, and service made on the Respondent. It is important that this is clarified by the Claimant, instead of the Court moving on to make a decision only to be later presented with an application to set aside its decision based on representation and service of the Respondent.
3. The Respondent entered Appearance and filed its Statement of Response on 26th August 2013 and 28th August 2013 respectively. Strangely, these documents are dated 16th May 2013, a whole 3 months before their filing. They were drawn, signed and filed in the name of Omariba & Company Advocates.
4. The invitation to schedule the dispute for hearing was sent by the Claimant's Advocates, to Soita & Saende Advocates on 20th November 2013. There is no Notice of Change of Advocates in the Court record. It is not clear how Omariba & Company Advocates left the scene, and how Soita & Saende entered the scene. Subsequent service and invitations were made on the Firm of Soita & Saende Advocates, which elicited no attendance in Court for the hearing. The Court has been called upon to make an *ex parte* determination.
5. The record, as it is, makes it difficult for the Court to give a final decision. Clarification needs to be made. In light of this the Court shall defer preparation and delivery of its decision and Order:-

[a] The dispute be mentioned after 21 days;

[b] The Claimant to place on the record Notice of Change of Advocates served upon him by the Respondent, indicating the shift in the representation of the Respondent, from the Firm of Omariba & Company Advocates to the Firm of Soita & Saende Advocates;

[c] A copy of this Ruling be served by the Claimant on both Law Firms and on the Respondent in Person; and

[d] Further Orders shall be given upon the clarification

Dated and delivered at Nairobi this 4th day of July 2014

James Rika

Judge