



REPUBLIC OF KENYA

INDUSTRIAL COURT NAIROBI

CAUSE 208 OF 2010

RAPHAEL MUSYOKA

NGUMBI.....CLAIMANT

VERSUS

PAEM AGENCIES COMPANY

LIMITED.....RESPONDENT

AND

**RAPHAEL KIOKO KITHUKU T/A RAKJOM & COMPANY
INVESTMENTS.....OBJECTOR/APPLICANT**

RULING

On 13-2-2012 this suit came up for hearing of the Objector's Notice of Motion dated 9-12-2011. The Applicant was ready to proceed but the Claimant was not ready to proceed because he had not filed his replying affidavit in opposition to the Motion.

He sought leave and the same was granted for only 14 days. The leave lapsed on 20-2-2012.

When the Motion came up for hearing again on the day scheduled on 14-3-2012, the Claimant informed the court that he filed replying affidavit late and sought leave of the court to have the replying affidavit filed on 13-3-2012 admitted.

The objection vehemently objected the request arguing that the said affidavit should not have been filed before first seeking leave to extend the time.

The claimant contented that the objector had also benefited from several extensions of interim orders which stays execution of the Claimant's decree.

I have perused the court record and considered the submission by the two parties. I have also noted how that small objection has caused much delay in the conclusion of this matter. Everybody has paid the cost of waiting for several months.

It is obvious that the damage has been done of delaying the matter. I see no more prejudice in granting the request to have the Claimant's replying affidavit admitted in the record.

The admission will not prejudice the objector because he has also benefited from the stay of execution for over 14 days. I, therefore direct the application to proceed with speed and not later than 3 weeks from the date hereof.

Orders accordingly.

DATED and **DELIVERED** at Nairobi this 5th day of October, 2012.

Onesmus Makau

JUDGE