

THE REPUBLIC OF UGANDA

THE INDUSTRIAL COURT OF UGANDA HOLDEN AT KAMPALA

LABOUR DISPUTE MISC. APPL. NO. 015 OF 2015

(ARISING FROM LABOUR DISPUTE LDC NO. 013 OF 2014)

BETWEEN

MAKERERE UNIVERSITY.....

.....CLAIMANT

AND

KISAMBIRA MASABA.....

RESPONDENT

BEFORE

1. The Hon. Chief Judge, Asaph Ruhinda Ntengye
2. The Hon. Judge, Linda Lillian Tumusiime Mugisha

Panelists

1. Mr. Ebyau Fidel
2. Ms. Harriet Mugambwa
3. Mr. Frankie Mubuke

RULING

This ruling arises out of an application by notice of motion seeking for orders that:

- 1) The time within which the applicant is allowed to file its reply to the memorandum of claim be extended and/or enlarged and
- 2) Costs of this application be provided for.

After a careful perusal of the affidavit supporting the application together with the affidavit in reply, we are of the considered opinion that indeed the failure of the applicant to file the necessary documents in court in the prescribed time was a result of the delay of secretary to the secretary of the applicant to serve, but who eventually, out of time, served the documents to the lawyers of the applicant.

However, we are of the considered opinion that such delay laid squarely on the shoulders of the

applicant. The secretary to the secretary of the applicant was a legitimate employee of the respondent and was obliged by virtue of his/her employment to have served the court process to his/her employer in time. It is not lawful or reasonable excuse for the applicant to claim that her own employee's negligence to deliver the court process to the rightful officer should exonerate her from responsibility.

We do not consider such negligence as sufficient cause.

Given that the subsistence of the claim touches employment matters, we are of the considered opinion that despite the findings of the court that the delay was caused by negligence of the employee of the applicant, we allow the applicant to file her reply so that the matter is heard on its merits.

Nonetheless the application will be allowed in the following terms:

- 1) The applicant will file the reply within 14 days from the date of this ruling.
- 2) The reply will be in consonance with the original pleadings filed on the record to allay the fears of the respondent that in effect the applicant might amend the pleadings.
- 3) The applicant shall pay costs of this application in the sum of 1,500,000 on or before hearing of the claim.

8/09/2015: M/s. Sylvia Winter holding brief for Shilla Tumwine for respondent.

Applicant absent.

Respondent in Court.

Court: Ruling delivered in open court.

Date: 8/09/2015:

Signed:

1. The Hon. Chief Judge, Asaph Ruhinda Ntengye

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