



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 293 of 2009

CHRIS MUTHENDU..... 1ST PETITIONER
ALEXIUS KIPCHUMBA SAPIRII2ND PETITIONER
SAMUEL WANYOIKE WAINAINA.....3RD PETITIONER
HENRY RIUNGU MUTHAURA4RD PETITIONER
VINCENT MANIAGI.....5TH PETITIONER
BONIFACE MIDO6TH PETITIONER

VERSUS
BANKING, INSURANCE &

FINANCE UNION (K)1ST RESPONDENT
THE MINISTER FOR LABOUR.....2ND RESPONDENT

AND
KENYA UNION OF COMMERCIAL FOOD &

ALLIED WORKERS UNION 1ST INTERESTED PARTY
THE KENYA BANKERS ASSOCIATION2ND INTERESTED PARTY
THE INDUSTRIAL COURT 3RD INTERESTED PARTY

RULING

In the petition dated 14th May 2009 filed on 15th May 2009 the Petitioners herein seek the following orders:

- 1. That this Honourable court be pleased to order the application herein be certified urgent, notice of this application in the 1st instance be dispensed with and this application be heard ex parte in the 1st instance.**
- 2. That this Honourable Court be pleased to grant a conservatory order staying the**

implementation and all processes touching on the Legal Gazette Notice Number 924 of 6th February 2009 purporting to effect agency fees against various unionisable bank employees pending the hearing and final determination of this application.

3. That this Honourable Court be pleased to grant a conservatory Order staying the negotiations on Collective bargaining Agreements for the period of 2009 to 2011 by the Trade unions of the employer banks and the employees of banks pending the hearing and final determination of this application.

4. That this Honourable Court be pleased to grant a conservatory order staying the implementation and all processes touching on the Legal Notice Number 924 of 6th February 2009 purporting to effect agency fees against various unionisable bank employees pending the hearing and final determination of the petition.

5. That this Honourable Court be pleased to grant a conservatory Order staying the negotiations on Collective Bargaining Agreements for the period of 2009 to 2011 by the trade unions of the employer banks and the unionized employees of banks pending the hearing and final determination of the petition herein.

6. That this Honourable Court be pleased to direct that the industrial cause number 121 (N) of 2008 be heard and disposed off expeditiously and/or to direct that the parties herein do make their submissions on the main issue of recognition dispute between the 1st respondent and the 1st interested party.

7. That this Honourable Court be pleased to make further Orders in the interest of justice of the parties involved and/or affected by this suit.

8. That costs of this application be provided for in favour of the petitioner/applicants.

When the petition came up before me on 29th January 2012, only the 1st respondent and the Interested Parties were represented. Although the petitioners were duly served there was no appearance on their behalf and counsel for the said respondent and interested parties applied for the dismissal of the petition. There is evidence that Patrick Maina & Co. Advocates were duly served with the hearing notice. The record of these proceedings clearly show that the Petitioners are not keen in prosecuting this Petition.

Accordingly I do not see any reason why this Petition should be allowed to continue hibernating in our registry shelves.

In the premises I accede to the prayer by the 1st respondent and the interested parties and order that this petition be and is hereby dismissed with costs to the 1st respondent and the interested partes.

G V ODUNGA
JUDGE

Dated and Delivered at Nairobi this 5th day of February 2013

J B HAVELOCK
JUDGE

Delivered in the presence of: