



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU

CAUSE NO. 36 OF 2020

VICTOR OKOTH MATINDE.....1ST CLAIMANT/APPLICANT
GRACE ADHIAMBO OTIENO.....2ND CLAIMANT/APPLICANT
ROSE ADHIAMBO ORINA.....3RD CLAIMANT/APPLICANT
DENVER OKEYO OMOLO.....4TH CLAIMANT/APPLICANT
KENNEDY ODHIAMBO ADIKO.....5TH CLAIMANT/APPLICANT
JACK OCHIENG CLAIMANT/APPLICANT.....6TH CLAIMANT/APPLICANT
ESTHER ADHIAMBO OBADO.....7TH CLAIMANT/APPLICANT
VERONICA ADHIAMBO ONDINGO.....8TH CLAIMANT/APPLICANT
MOLLY AGUMBE.....9TH CLAIMANT/APPLICANT
ROBERT APUNDA.....10TH CLAIMANT/APPLICANT

VERSUS

MIGORI COUNTY GOVERNMENT.....1ST RESPONDENT
MIGORI COUNTY PUBLIC SERVICE BOARD.....2ND RESPONDENT

RULING

1. The suit, Cause No. 43 of 2018, Victor Okoth Matinde and 10 others –vs- Migori County Government and 10 others and Cause No. 36 of 2020 Kobado Eric Eeja –vs- Migori County Government and Another deal with the same dispute and issues for determination being: -

“Whether the Respondents have violated the Applicants/Claimants right to fair Labour Practice by employing them as casual workers for over 4 years.

2. The Court delivered a ruling in Cause No. 43 of 2018 on 20/9/2018 directing: -

(a) The prevailing status quo as between the claimants/Applicants and the Respondents be maintained pending the hearing and determination of the main suit.

(b) For avoidance of doubt, the Claimants/Applicants continue to be employed and provide services to the Respondents in their present capacities or as otherwise determined by the Respondent, until the dispute is resolved on the merits.

3. The present application in Cause 36 of 2020 is similar in all respects to the application in Cause No. 43 of 2018. The only difference is that there has not been an earlier determination at the interlocutory stage as has happened in Cause No. 43 of 2018.

4. Cognisant of this fact, and being in possession of the two matters, at this moment and in order to facilitate orderly hearing and

determination of the common dispute in the two matters, the Court makes an order consolidating the two matters with Cause No. No. 43 of 2018 being the lead file.

5. Meanwhile the Ruling made by the Court in respect of the Application dated 15/5/2020 in Cause No. 43 is to apply equally to Application dated 21/5/2020 in Cause No. 36 of 2020, the two matters now being the consolidated suit.

6. The consolidated suit to be set down for hearing as stated in the said ruling.

Dated and delivered at Nairobi this 11th day of March, 2021.

MATHEWS N. NDUMA

JUDGE

ORDER

In view of the declaration of measures restricting court of operations due to the COVID-19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on 15th March 2020, this ruling has been delivered to the parties online with their consent. They have waived compliance with **Order 21 rule 1 of the Civil Procedure Rules** which requires that all judgments and Judgment be pronounced in open court. In permitting this course, this court has been guided by **Article 159(2)(d)** of the Constitution which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under **Article 48** of the Constitution and the provisions of **Section 18 of the Civil Procedure Act (chapter 21 of the Laws of Kenya)** which impose on this court the duty of the court, *inter alia*, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

MATHEWS N. NDUMA

JUDGE

Appearances

Claimants in person

Abisai & Co. Advocates for the 1st and 2nd Respondents

Chrispo: Court clerk.