



**Seafarers Union of Kenya v Ramadhan & 2 others; Registrar of Trade Union (Interested Party) (Cause E057 of 2023) [2025] KEELRC 2554 (KLR) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2554 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
CAUSE E057 OF 2023  
M MBARŪ, J  
SEPTEMBER 25, 2025**

**BETWEEN**

**SEAFARERS UNION OF KENYA ..... CLAIMANT**

**AND**

**ATIE SWALE RAMADHAN ..... 1<sup>ST</sup> RESPONDENT**

**JOHN HUSSEIN ZAPPA ..... 2<sup>ND</sup> RESPONDENT**

**MATARI MWINYI MARARI ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**REGISTRAR OF TRADE UNION ..... INTERESTED PARTY**

**RULING**

1. The ruling herein relates to Notice of Preliminary Objections filed by the Respondents dated 17 April 2025 on the basis that the suit is defective and cannot proceed because Hassan Kombo Ismael, who swore the verifying affidavit and witness, is not a member of the claimant union. He does not make direct payment to a trade union dues or work in the industry. His name does not appear in the checkoff system from companies in the industry, nor does it appear in the agency fees payments. He thus lacks locus standi to bring this suit on behalf of the claimant union, and the suit should be dismissed with costs.
2. The respondents submitted that the claim dated 22 June 2023 relates to elections of the claimant union. The claim is supported through the Verifying Affidavit of Hasan Kombo Ismael, who is not a member and has no relationship with the union he purports to represent. Under sections 33(a) and (c) of the *Labour Relations Act* (LRA), no one is allowed to represent a trade union unless they are employed in the sector of the trade union. Kombo cannot be a voting member of the union because he does not pay any subscriptions to the union.



3. The respondents submitted that section 48 of the *LRA* provides for deductions of trade union dues by an employer from the wages of employees who are members of the union. This is not the case of Kombo, who is not a member of the claimant union he seeks to represent in these proceedings.
4. Section 49 of the *LRA* provides for agency fee deductions from unionisable employees who are not members of the trade union. Kombo does not make such deductions or benefit under section 52 of the LRA by making direct payments to the claimant union. He is not a member and or engaged in the sector represented by the claimant union. Article 41(2) (c) of the *Constitution* gives every employee the right to join or participate in a trade union of choice. Still, Kombo is not a member or contributor of the claimant. He lacks the capacity to be a leader, act, or plead on behalf of the claimant.
5. In the case of *Hadullo & Another v Registrar of Trade Union & 3 others* Petition E050 of 2024, the court held that a constitutional issue requires interrogation of a constitutional right and deals with the interpretation of the *Constitution*. In this case, Kombo has not provided the court with any evidence of his relationship with the claimant to allow him the necessary *locus standi* to represent the union. The claim should be dismissed with costs.
6. The claimant submitted that the objections made are not based on pure points of law, as necessary, as held in *Mukisa Biscuit Manufacturing Co. Ltd v West End Distributors Ltd* [1969] EA. The claimant has produced credible documents through payment of subscriptions, was elected assistant treasurer, and has been a committee member and has undertaken multiple union activities. The trade union leadership is not pegged on the existence of a checkoff system. Seafarers work on contractual terms and do not operate under a check-off system.
7. In the case of *Kenya Union of Domestic, Hotels, Educational Institutions And Hospital Workers (Kudbeiba) v BOG North Eastern Girls High School & Another* [2014] eKLR, the court held that locus standi may be founded on functional participation and representation, rather than on pay slips or check-off records. The objections raised are not pure points of law. The claimant is a trade union, and the Verifying Affidavit confirms the truthfulness of the pleadings. This is not a confirmation of membership in the trade union.

### **Determination**

8. The locus standi of Kombo to support these proceedings for the claimant is challenged. The respondents assert that he has no capacity to file proceedings on behalf of the claimant union because he is not a member, pays union dues or agency fees, nor is he employed in the sector represented by the claimant.
9. Before addressing this issue, the court notes the back-and-forth proceedings between the parties.
10. In an application dated 8 July 2024, the question of joinder of interested parties was addressed and dismissed through a ruling delivered on 26 September 2024.
11. In the referenced ruling, the court observed that the registered officials of the union are;
  - Chairperson, Mwalimi Chii Hamisi;
  - Deputy Chairperson, Khalfan Jilani Mwamboje;
  - General Secretary, 1<sup>st</sup> respondent;
  - Deputy General Secretary, Said Chako;
  - Treasurer, 2<sup>nd</sup> respondent;



Deputy Treasurer, Ali Hassan Bakari;  
Young workers representative, Salim Gombeni Suleiman;  
Women’s representative, Mwarabu Abresh Said;  
Shop floor committees’ representative, Alamin Ahmed;  
Committee members, Mchangamwe Abdallah Omar  
Omar Mohammed Mwadzedze;  
Suleiman Omar Boma  
Trustee, Fadhili Gona;  
Trustee, Mwanamgeni Hassan;  
Trustee, David Hendry Kibuyu.

12. In this case, the claim by the claimant union, the Seafarers Union of Kenya, is supported by Hassan Kombo Ismael, who is a committee member of the claimant. He has also filed his witness statement, which is lacking in detail.
13. The operations of a trade union are regulated under the [LRA](#). Section 2 of the [LRA](#) defines the authorised officer of a trade union to include;
  - “ Authorised representative” means—
    - (a) The general secretary of a trade union;
    - (b) An employer or the chief executive officer of an employer;
    - (c) The secretary of a group of employers;
    - (d) the chief executive or association secretary of an employers’ organisation; or
    - (e) any person appointed in writing by an authorised representative to perform the functions of the authorised representative;
14. The general secretary of the trade union is the only person allowed to act for and on behalf of a trade union. Unless there is written authority to attend on behalf of the union, as held in *Kenya Ports Authority v Dock Workers Union, Cause No. E099 of 2021 (Mombasa)*. The registered returns to the Registrar of Trade Unions are the correct records about who the general secretary of a trade union is. In this regard, being a member of the committee of the trade union is not sufficient ground to attend and file a claim for and on behalf of a trade union.
15. However, in this case, the parties have had back-and-forth applications and counterapplications without proceeding with the hearing of the main claim. The issue related to the elections within the claimant union on 21 June 2023.
16. When delivering a ruling on 26 September 2024, the court directed the claimant to take a hearing date on a priority basis or allow the respondents to move the court as appropriate.

It is now a year since.
17. Instead of seeking to have the suit dismissed for want of prosecution, the respondents have opted to file the objections.



18. The claimant shall attend court on 29 September 2025 to show cause why this claim should not be dismissed. The objections noted, the claimant shall have a chance to show cause.

Orders accordingly.

**DELIVERED IN OPEN COURT AT MOMBASA, THIS 25TH DAY OF SEPTEMBER 2025.**

**M. MBARŪ**

**JUDGE**

In the presence of:

Court Assistant: Japhet

..... and .....

