



**Abunda v Brandworld Communications Limited & 3 others (Cause E897 of 2022) [2024] KEELRC 964 (KLR) (2 May 2024) (Ruling)**

Neutral citation: [2024] KEELRC 964 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E897 OF 2022**

**L NDOLO, J  
MAY 2, 2024**

**BETWEEN**

**SETH ABUNDA ..... CLAIMANT**

**AND**

**BRANDWORLD COMMUNICATIONS LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**KIRIMI RINTAUGU ..... 2<sup>ND</sup> RESPONDENT**

**SUSAN WAMUYU KANAFUNZI ..... 3<sup>RD</sup> RESPONDENT**

**CATHERINE NTHENYA KIMEU ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. By their Chamber Summons application dated 14<sup>th</sup> December 2023, the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents seek orders striking out the Claimant’s claim, as against them.
2. The application is supported by an affidavit sworn by the 1<sup>st</sup> Respondent, Kirimi Rintaugu and is based on the following grounds:
  - a. That on 23<sup>rd</sup> November 2023, the Court rejected the Claimant’s plea to join the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents in the claim;
  - b. That the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents are improperly joined as parties to the suit;
  - c. That the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents were merely shareholders and directors in the 1<sup>st</sup> Respondent, while the 4<sup>th</sup> Respondent was a secretary and they do not have any interest in the 1<sup>st</sup> Respondent Company;
  - d. That no cause of action has been disclosed as against the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents.



3. The Claimant opposes the application by his replying affidavit sworn on 15<sup>th</sup> February 2024. He depones that the Court allowed him to amend his claim to include all the directors of the Company. He points out that in his application seeking amendment of the claim, he had attached a draft amended Memorandum of Claim, which included the Respondents.
4. The Claimant asserts that the Respondents, having failed to raise an objection upon being served with the application seeking amendment of the claim, are estopped from objecting to the amendment at this stage.
5. In its ruling delivered on 23<sup>rd</sup> November 2023, this Court declined the Claimant's plea to lift the corporate veil, on the ground that the threshold for such an order had not been met.
6. By his proposed amendment, whose effect will be to join directors and shareholders of the 1<sup>st</sup> Respondent, the Claimant seeks to circumvent the findings of the Court on this issue. This is a clear abuse of the court process and the only order to make is to allow the application by the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Respondents, with the result that they are removed from these proceedings.
7. The costs of the application will be in the cause.
8. Orders accordingly.

**DELIVERED VIRTUALLY AT NAIROBI THIS 2<sup>ND</sup> DAY OF MAY 2024**

**LINNET NDOLO**

**JUDGE**

Appearance

Ms. Said for the Claimant

Mr. Ombati for the Respondents

