



**Seafarers Union of Kenya v Ramadhan & 2 others; Registrar of Trade Union (Interested Party) (Cause E057 of 2023) [2024] KEELRC 2294 (KLR) (26 September 2024) (Ruling)**

Neutral citation: [2024] KEELRC 2294 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
CAUSE E057 OF 2023  
M MBARŪ, J  
SEPTEMBER 26, 2024**

**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 applicant filed an application dated 8 July 2024 seeking orders:
  1. The applicant applicants listed in paragraph 5 of the supporting affidavit herein be granted leave to join and/or be enjoined in this case an interested party.
  2. The court be at liberty to grant any other orders it deems necessary in the circumstances of the case.
2. The applicant has indicated that the application is supported by the Affidavit of Albert Adembesa Mirobi but the attached supporting Affidavit is that of Albert Adembesa Adegó.
3. In his Supporting Affidavit, Albert Adembesa Adegó aver that he is a member of the claimant union and his affidavit is on behalf of the other intended third parties who have given him authority to act in this matter on their behalf. The claimant has sued the respondents for creating a splinter group and conducting an election separately from the one that was conducted by the claimant. The applicants are union members interested in the running of the union and hence seek justice to be done and the



rightfully elected officials as per the union constitution be allowed to run the affairs of the union. The joinder as interested parties will not prejudice the parties herein and the court will reach a fair and just decision.

4. The respondents filed a reply to the application through the Replying Affidavit of the 1<sup>st</sup> respondent, Atie Swaleh Ramadhan and aver that the application does not meet the threshold for joinder of the applicants are interested parties herein. The claimant has not filed the union constitution which the applicants seek to apply. The terms of their membership are not defined and there is no proof of what relationship exists with any other party herein.
5. The applicant has come to court with unclean hands since one Hassan Ismael Kombo who seeks to be enjoined is the one who swore an affidavit in the main suit and cannot be the plaintiff and an interested party in the same suit. Stephen Owaki has sworn an affidavit in support of the application dated 25 April 2023 and the real intention is to divert attention with court cases. The applicants have realized that they have no case against the respondents and have applied all manner of tactics to divert the court to non-issues and the application should be dismissed with costs.
6. Parties attended court and agreed to address the application by way of written submissions. Only the respondents complied and filed written submissions.

#### **Determination**

7. As outlined above, the application dated 8 July 2024 in the body indicates that it is supported by Albert Adembesa Mirobi but the attached affidavit is by one Albert Ademesa Adego.  
This variance is not addressed.
8. It is not clarified by the applicant whether this is the same person. The person given authority to act is one Albert Adembesa Adego and not Albert Adembesa Mirobi.
9. Who is an interested party? Why does Albert Adembesa Adego want to act for third parties while an advocate is attending for the applicant?
10. In the case of *John Harun Mwau v Simone Haysom & 2 others; Attorney General & 2 others (Interested Parties)* [2021] eKLR and interested party is defined as;  
a party who has a recognizable stake and therefore a standing in a matter.
11. Under Rule 2 of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, an interested party is defined as:  
a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the court but is not a party to the proceedings or may not be directly involved in the litigation.
12. In the case of *Trusted Society of Human Rights Alliance v Mumo Matemu & 5 Others* [2014] eKLR the Supreme Court of Kenya defined an interested party as;  
...one who has a stake in the proceedings, though he or she was not a party to the cause ab initio. He or she will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...



in this case, the applicant seeks to attend for third parties and not for self. The defined stake is that he is a member of the union and has an interest in this matter to see justice is done and the rightfully elected officials as per the union's constitution are allowed to run and/or manage its affairs.

The court has had the advantage of looking at the latest extract of the claimant's union officials issued by the interested party herein, the Registrar of Trade Unions. This extract is attached to the 1<sup>st</sup> Respondent's Affidavit dated 15 July 2024. 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.

13. These are the officials of the claimant union as per the returns to the interested party herein unless otherwise directed by the court, these are the officers and officials authorized under the [Labour Relations Act](#) to act and attend to secure the interests of the claimant union.
14. Without a defined interest to attend herein to address any matter directly or indirectly, the applicant's application to attend for and on behalf of third parties is found without merit.
15. What is clear to the court at this point is the various applications filed by different persons seeking to either attend as interested parties or third parties in these proceedings. There is an application dated 26 January 2024 which was declined on 14 March 2024. There is an application dated 25 April 2024 which was dismissed and one Stephen Ojiambo Owaki directed to pay costs of Ksh.20, 000.
16. The instant application is the third such application that is found without merit.
17. To ensure that the court process is not abused, the claimant is given the next 14 days to set down the matter for hearing.
18. In the event the claimant does not act, the respondents are at liberty to move the court to have the claim herein dismissed.



19. Application dated 8 July 2024 is hereby dismissed. The respondents are awarded costs assessed at ksh.20, 000 to be paid by the applicant, Albert Adembesa Adego.
20. The claimant has 14 days to move the court on the hearing of the claim.
21. Where the claimant fails to act, the respondents can move the court and dismiss the claim.

**DELIVERED IN OPEN COURT AT MOMBASA THIS 26 DAY OF SEPTEMBER 2024.**

**M. MBARŪ**

**JUDGE**

In the presence of:

Court Assistant: Japhet

..... and .....

