



**Kiarie v Alliance for a Green Revolution In Africa (AGRA) (Cause E211 of 2025) [2025] KEELRC 2765 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2765 (KLR)

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**  
**CAUSE E211 OF 2025**  
**S RADIDO, J**  
**OCTOBER 9, 2025**

**BETWEEN**

**JEAN KIARIE ..... CLAIMANT**

**AND**

**ALLIANCE FOR A GREEN REVOLUTION IN AFRICA (AGRA) ..... RESPONDENT**

**RULING**

1. Jean Kiarie (the Claimant) sued the Alliance for a Green Revolution in Africa (the Respondent) on 13 March 2025, alleging unfair termination of employment (constructive dismissal), discrimination and harassment.
2. The Respondent filed a Memorandum of Reply on 16 May 2025, and on 24 June 2025, the Claimant filed a Motion seeking orders:
  - i. That the Honourable Court be pleased to grant the Claimant leave to issue and serve witness summons upon:
    - (a) Dr Agnes Kalibata – Former President, AGRA.
    - (b) Mr Yamfwa Chiyanta – Former Director, Human Resources & Administration, AGRA to compel their attendance at the hearing of this Cause for purposes of giving viva-voce evidence.
  - ii. In the alternative and only if Order (i) above is declined, THAT the Honourable Court do order the Respondent and/or the aforesaid officers to produce, within seven (7) days, original or certified copies of all documents, emails, minutes, handwritten notes or electronic messages in their possession or control relating to:
    - (a) The meeting of 8 October 2024 between the Claimant, Dr Kalibata and Mr Chiyanta.



- (b) The drafting, negotiation and execution of the Mutual Separation Agreement dated 14 October 2024.
  - (c) Decisions on housing allowance, education benefits or retention of work tools made in respect of the Claimant.
- iii. That costs of this application be in the cause.
- 3. The primary grounds in support of the Motion were that the witnesses sought to be summoned were directly involved in the decision not to renew the Claimant's contract and Mutual Separation Agreement and their evidence was vital for a just determination of the dispute; the Respondent had not filed witness statements; the Motion had been made without any delay and the interests of justice favoured the grant of the orders prayed for.
- 4. The Respondent filed a replying affidavit on 4 August 2025 (should have been filed and served before 18 July 2025).
- 5. In the affidavit, the Respondent's Senior People Officer deponed that the witness statements on record had clearly explained under what circumstances the parties separated; the persons sought to be summoned had left the Respondent's employment/jurisdiction of the Court and the Respondent had no control over them and that the application lacked merit.
- 6. The parties' submissions were not on record by the agreed-upon timelines.
- 7. The Court has considered the Motion and affidavits, and makes the following determinations.
- 8. One, the Court has the power to issue a summons to a witness on the application of a party (see section 23 of the *Civil Procedure Act*, Order 16 of the Civil Procedure Rules and *Dahir Sadik AUSAAD v Modogashe Construction Ltd & 3 Ors* (2016) eKLR.
- 9. Two, the Claimant has indicated that the witnesses sought to be summoned worked with the Respondent but have since left employment. The Respondent has stated that the proposed witnesses have left the jurisdiction of the Court.
- 10. The Claimant has not disclosed whether she approached the two persons to testify on her behalf, and they declined. There is no suggestion that the 2 proposed witnesses would be unwilling to testify at the behest of the Claimant.
- 11. Three, under the law, the Claimant has an evidential burden to discharge. She states that she was present in the meeting on 8 October 2024, that she wants the 2 persons to testify on. If she meets the evidential standard, it would be up to the Respondent to rebut her evidence or testimony.
- 12. It would not be role of the Court in the circumstances to demand that the Respondent meet the shifting burden, if any, on the case presented by the Claimant.
- 13. Four, the 2 persons the Claimant wants to be summoned on her behalf were the Respondent's senior managers, and one was her superior. It is up to the Respondent to decide whether to call them to respond to the Claimant's case, as already signified through the witness statements and further witness statements.
- 14. Five, the Claimant has not shown that the witnesses to be summoned kept notes or minutes of the meeting on 8 October 2024, or any other meeting on the circumstances surrounding the separation.



15. Lastly, the Claimant has made adverse allegations in her pleadings against the 2 proposed witnesses. It can therefore be left to the imagination whether the 2 would assist the Court in meeting the principal objective given it in section 3 of the *Employment and Labour Relations Court Act*.

### **Orders**

16. The Motion dated 21 June 2025 is found without merit and is dismissed without any order on costs since the parties did not file submissions within the agreed timelines.

**DELIVERED VIRTUALLY, DATED AND SIGNED IN KARATINA ON THIS 9<sup>TH</sup> DAY OF OCTOBER 2025.**

**RADIDO STEPHEN, MCIARB**

**JUDGE**

Appearances

For Claimant Harry Karanja & Co. Advocates

For Respondent RONN Law Advocates LLP

Court Assistant Wangu

