

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS
COURT AT NAIROBI
CAUSE NO. E035 OF 2025
ROSELYN MUTHONI MAINA CLAIMANT
v
AFRICAN MANAGEMENT INSTITUTE
RESPONDENT**

RULING

1. Roselyn Muthoni Maina (the Claimant) sued African Management Institute (the Respondent) on 23 January 2025, alleging unfair termination of employment and breach of contract.

2. On 7 February 2025, the Respondent filed a Summons seeking orders:

(i) The proceedings herein be

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stayed and the dispute between the parties be referred to arbitration in accordance with the terms and conditions of the Employment Agreement dated 11th December 2023 between them.

(ii) The Claimant bears the costs of this application.

3. The grounds in support of the Summons were that the employment contract provided for arbitration in case of disputes and that the contract was freely entered into.

4. The Claimant filed Grounds of Opposition on 25 February 2025, asserting that the Respondent, as a party to the contract, had not itself opted to refer the dispute to arbitration; the application was a delaying tactic and that the Court should invoke section 6(1) of the Arbitration Act and hear and determine the Cause.

5. The Claimant also filed a replying affidavit on 3 April 2025, attesting that the application was brought in bad faith and was an afterthought; the Respondent had not raised the issue of arbitration in prior proceedings before the Chief Magistrates' Court, which was withdrawn because of want of

jurisdiction and that the dispute was unlikely to be resolved through arbitration.

6. The Respondent filed its submissions on 1 October 2025.

7. Drawing from *Space & Style Ltd & Ar v Wambugu & 4 Ors* (2023) KECA 412 (KLR),

the Respondent submitted that the employment contract had an arbitration clause and that the agreement bound the parties and therefore the Claimant ought to have invoked the clause on arbitration.

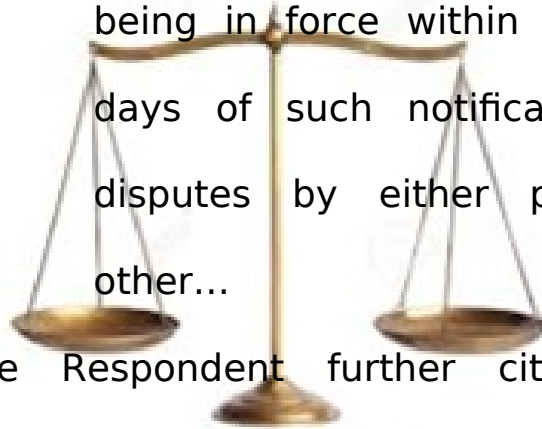
8. The Respondent further submitted that the Claimant was alleging *constructive dismissal*, and this type of dispute was envisaged under the arbitration clause which provided that:

All disputes between the parties regarding any aspect of this agreement shall be referred to arbitration by a single arbitrator to be appointed by agreement between the parties hereto. In default of such

agreement within fourteen (14) days, either party may apply to the Chairman of the Chartered Institute of Arbitrators (Kenya Branch) in accordance with and subject to the provisions of the Arbitration Act No. 4

of 1999, or statutory modification or re-enactment thereof for the time being in force within fourteen (14)

days of such notification of such disputes by either party to the other...



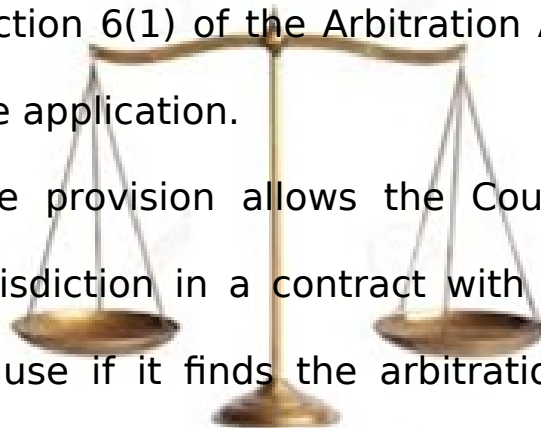
9. The Respondent further cited *Benjamin Oluoch Onoka v Solarnow Services Kenya Ltd* (2021) eKLR to urge that where there was a provision for alternative dispute resolution, the provision should be exhausted before invoking the jurisdiction of the Court.
10. The Claimant had filed her submissions on 3 September 2025, and urged therein that the Respondent had no interest in the settlement

of the dispute because it had taken no steps to refer the dispute to arbitration.

11. The Claimant called to her aid and relied on *Telkon Kenya Ltd v Rapid Communications Ltd* (2015) eKLR to contend that alternative dispute resolution should not be used as a ploy to delay the resolution of disputes.

12. The Claimant urged the Court to invoke section 6(1) of the Arbitration Act and reject the application.

13. The provision allows the Court to assume jurisdiction in a contract with an arbitration clause if it finds the arbitration clause null and void, inoperative or incapable of being performed.



14. The Court has considered the Summons, affidavits, Grounds of Opposition and submissions.

15. The Claimant and the Respondent voluntarily entered into a contract with a clause on arbitration.

16. Arbitration is a recognised alternative dispute resolution process under Article 159 of the Constitution.

17. It behoved the Claimant as the disaffected party to refer the dispute to arbitration at the first instance instead of blaming the Respondent for not utilizing the arbitration route.

18. In the instant case, the Respondent took the logical step of requesting the Court to direct the parties to comply with the terms of their contract.

19. The Claimant further contended that the arbitration clause was null and void, inoperative or incapable of performance.

20. Despite making the contention, the Claimant did not place any material before the Court on which it could conclude that the arbitration clause was null and void or a bad bargain.

21. The Court finds merit in the Summons.

Orders

22. Flowing from the above, the Summons is allowed in the following terms:

(i) The Cause herein is stayed pending the parties' compliance with the arbitration clause.

(ii) In the event of the parties agreeing to a single arbitrator within 14 days of today, the parties shall apply to the Chairperson of the Chartered Institute of Arbitrators (Kenya Branch) to appoint an arbitrator.

(iii) The arbitration process to be concluded within 60 days, and the parties will report back to the Court on a date to be agreed on hereinafter.

23. Costs in the cause.

Delivered virtually, dated and signed in Nairobi on this 27th day of November 2025.

**Radido Stephen, MCI Arb
Judge**

Appearances

For Claimant Mbai Waweru

Advocates

For Respondent Muri Mwaniki Thige &
Kageni LLP Advocates

Court Assistant Wangu

EMPLOYMENT AND LABOUR RELATIONS COURT



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