

**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT MOMBASA**

**ELRC CAUSE E014 OF 2025**

**GEORGE OKWENGU & 34 OTHERS.....CLAIMANTS**

**VS**

**KWALE INTERNATIONAL**

**SUGAR COMPANY LIMITED (KISCOL).....RESPONDENT**

**RULING**

1. By a Notice of Motion application dated 24th June 2025, expressed to be under the provisions of Sections 3A, 4 and 5 of the Civil Procedure Act, the Respondent seeks that the suits by the 1st,2nd, 3rd, 4th, 9th, 10th, 16th, 17th, 18th, 28th, and 30th Claimants be dismissed and or be struck out with costs.
2. The application is premised on the grounds set out on the face thereof, and the supporting affidavit sworn on 24th June 2025, by Anne Ituku, the Respondent's Human Resources and Administration Manager.
3. Despite being granted leave of this Court to file a response to the application, the Claimant failed to do so.

4. The Respondent contends that a perusal of the various contracts of employment filed by the above-mentioned Claimants reveals that the said Claimants are employees of an entity called Berlin Equipment Limited.
5. There is no nexus between the stated Claimants and the Respondent as there is no employment relationship between them. The claim herein by the Claimants is mischievously initiated.
6. The Respondent is non-suited in respect of the Claimants mentioned above, as such their claims are a nullity and fatally incompetent.

### **Determination**

7. This Court notes that despite being granted an opportunity to respond to the Respondent's application in any of the ways permitted by law, the above-named Claimants failed to do so. The vital factual issues deposed to in the supporting affidavit have not been rebutted at all.
8. The stated Claimants' employment offers annexed to the application clearly demonstrate that they were employees of the enterprise called Berlin Equipment Limited. Without any privity of contract shown between the stated Claimants and the Respondent, it is not difficult to conclude that the Claimants have no cause of action against the Respondent in employment litigation.
9. By reason of the foregoing premises, I find the Respondent's application meritorious. It is hereby allowed. The suits by the 1st, 3rd, 4th, 9th, 10th, 16th, 17th, 18th, 28th, & 30th Claimants against the Respondent are hereby dismissed. The costs of the suits and the instant application shall be borne by the said Claimants.

Read Signed and Delivered this 26th Day of February 2026.

**SIGNED:**

**JUSTICE OCHARO KEBIRA**