



**Rift Valley Railways Workers Union v Governor County Government of Nairobi & 5 others; Attorney General (Interested Party) (Environment & Land Case E244 of 2020) [2024] KEELC 1033 (KLR) (15 February 2024) (Ruling)**

Neutral citation: [2024] KEELC 1033 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE E244 OF 2020**

**J OMANGE, J  
FEBRUARY 15, 2024**

**BETWEEN**

**RIFT VALLEY RAILWAYS WORKERS UNION ..... APPLICANT**

**AND**

**THE GOVERNOR COUNTY GOVERNMENT OF NAIROBI ... 1<sup>ST</sup> DEFENDANT**

**KENYA RAILWAYS STAFF RETIREMENT BENEFIT SCHEME .... 2<sup>ND</sup> DEFENDANT**

**KENYA RAILWAYS CORPORATION ..... 3<sup>RD</sup> DEFENDANT**

**THE KENYA NATIONAL LANDS COMMISSION ..... 4<sup>TH</sup> DEFENDANT**

**RETIREMENT BENEFITS AUTHORITY ..... 5<sup>TH</sup> DEFENDANT**

**MINISTRY OF TRANSPORT AND INFRASTRUCTURE HOUSING AND URBAN DEVELOPMENT ..... 6<sup>TH</sup> DEFENDANT**

**AND**

**THE ATTORNEY GENERAL ..... INTERESTED PARTY**

**RULING**

1. The application before this court is the Notice of Motion dated 4<sup>th</sup> September 2023 seeks the following orders:
  - i. That the proceedings and due process in the matter herein be stood over on the basis of the matter in HCCC MISC E629 OF 2023 filed in the High court civil division that is to determine the locus standi of the parties representing the 2<sup>nd</sup> respondent herein.



- ii. Costs of the Application.
2. The application is brought on the grounds on the face of the application and the supporting affidavit of Munayi Opondo Issac on behalf of the Applicant. He depones that the parties representing the 2<sup>nd</sup> Respondent herein have no locus standi to appear before as they are not duly on record. That there is a pending application in the High Court HCCC MISC E629 of 2023 that seeks to determine whether they have any locus standi to transact on behalf of the 2<sup>nd</sup> Respondent. That owing to the fact that the Applicant is litigating on interests of over 8000 people it is only right that the authorized persons be on record for the pension scheme under which the plaintiff falls.
  3. The Applicant filed submissions in which he submitted that the legal notices that appointed the persons acting for the 2<sup>nd</sup> Respondent have expired and vide the decision of the senate committee on social and labour welfare 2020, employees of a corporation are not to sit on the board, and on reliance on the provisions of section 6(1) of state corporation Act cap 446 , One Mr John Agoro and Martin Magwanja are estopped from engaging in the affairs of the 2<sup>nd</sup> respondent including representing it in this suit.
  4. The 1<sup>st</sup> Respondent did not file any replying affidavit nor submissions. As such the Plaintiff's application is unopposed. Although the application is unopposed, it is the duty of the Court to nevertheless subject it to a merit evaluation in accord with the applicable laws and principles. Indeed, in *Gideon Sitelu Konchellah vs. Julius Lekakeny Ole Sunkuli & 2 others* [2018] eKLR the Supreme Court of Kenya held that:

“...as a court of law, we have a duty in principle to look at what the application is about and what it seeks. It is not automatic that for any unopposed application, the Court will as a matter of course grant the sought orders. It behooves the Court to be satisfied that prima facie, with no objection, the application is meritorious and the prayers may be granted. The Court is under a duty to look at the application and without making any inferences on facts point out any points of law, such as any jurisdictional impediment, which might render the application a non-starter. We see no such jurisdictional issue in the application before us. Hence we have proceeded to consider the facts before us as against the jurisprudence for grant of stay orders set by this Court...
  5. The issue for determination before this court is whether the application warrants grant of the prayers sought after. The Applicant's contend that the issue of locus standi is in issue in another case at the High Court. The Courts decision therein will affect the 2<sup>nd</sup> respondent's representation in this suit.
  6. In the case of *Law Society of Kenya v Commissioner of Lands & 2 others* [2001] eKLR, the High Court (Ombija J ) held that:- “Locus Standi signifies a right to be heard, a person must have sufficiency of interest to sustain his standing to sue in Court of Law”.
- And in the case of *Daykio Plantations Limited v National Bank of Kenya Limited & 2 others* [2019] eKLR this court (Gacheru J) held as follows: - “It is therefore evident that locus standi is the right to appear and be heard in Court or other proceedings and literally, it means ‘a place of standing’. Therefore, if a party is found to have no locus standi, then it means he/she cannot be heard even on whether or not he has a case worth listening to. It is further evident that if this Court was to find that the Applicant has no locus standi, then the Applicant cannot be heard and that point alone may dispose of the suit.”
7. The Applicant attached to his application, the application made in HCC E629 of 2023 on the issue of locus. Given the centrality of locus and as this is an issue that is being heard by a court of concurrent



jurisdiction, it is in the interest of efficient use of judicial time for this issue to be resolved first before this matter proceeds. As such the proceedings in this matter are stayed pending the determination of the application dated 9<sup>th</sup> August, 2023 in HCCC Misc E 629 of 2023. Costs to abide outcome of main suit.

**DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 15<sup>TH</sup> DAY OF FEBRUARY 2024.**

**JUDY OMANGE**

**JUDGE**

In the presence of: -

Mr. Wanda for 1<sup>st</sup> Respondent

Mr. Khisa for Miss Kavagi for the Plaintiff

Steve - Court Assistant

