



**Kenya Ports Authority v Dock Workers Union (Cause E099 of 2021)  
[2025] KEELRC 166 (KLR) (30 January 2025) (Ruling)**

Neutral citation: [2025] KEELRC 166 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA  
CAUSE E099 OF 2021  
M MBARŪ, J  
JANUARY 30, 2025**

**BETWEEN**

**KENYA PORTS AUTHORITY ..... CLAIMANT**

**AND**

**DOCK WORKERS UNION ..... RESPONDENT**

**RULING**

1. The respondent, Dock Workers Union filed an application dated 31 October 2024 under the provisions of Sections 3 and 12 of the [Employment and Labour Relations Act](#) and Rule 8 ad 63 of the [Employment and Labour Relations Court \(Procedure\) Rules, 2024](#) seeking orders;  
  
The court be pleased to deem the authority to represent and act on behalf of the General Secretary by Leonard Ochieng filed with the affidavit dated 16 July 2024 as duly filed.
2. The application is supported by Simon Kiprono Sang, general secretary of the respondent trade union. He avers that the claimant filed suit to stop a strike that the union had called. In reply, the union was represented by Leonard Ochieng. The union inadvertently did not file the letter of authority by the general secretary as required under Section 2 of the [Labour Relations Act](#) (LRA).
3. In response, the respondent union filed a counterclaim due for a full trial. If the application is allowed, the claimant will not suffer any prejudice.
4. In reply, the claimant filed the Replying Affidavit of Robert Muge Advocate in the matter on behalf of the claimant. He avers that the claimant recognizes the claimant through the Industrial Relations Machinery 1968. The respondent issued a 7-day strike notice after failing to reach a negotiation over the promotions of its members to senior positions. The respondent claimed the claimant had violated its constitutional rights. The strike was illegal and was not referred to as conciliation under Section 76 of the LRA.



5. Muge avers that the respondent is represented in these proceedings by an unqualified person violates Section 22 of the *Employment and Labour Relations Court Act*, which allows representation by an advocate, office bearer, union official or duly authorized employee. The authority granting Leonard Rufus Ochieng to represent the union on behalf of the general secretary would result in an injustice to the claimant and that Leonard Rufus Ochieng lacks audience before the court. The application by the respondent should be dismissed with costs.
6. On 27 January 2025, parties attended the application hearing, and Leonard Rufus Ochieng attended for the respondent. He submitted that following judgment in Mombasa ELRC Petition E004 of 2024, delivered on 23 January 2025, the court held he had no legal authority to represent the union or attend before the court. He sought court directions.
7. The claimant advocate submitted that in the circumstances of the court judgment, as conceded by the respondent, the court should strike out the proceedings filed by an unauthorised person under Section 22 of the *Employment and Labour Relations Act* and Section 2 of the *Labour Relations Act* (LRA) should be struck out. The law only allows the general secretary, an advocate, or an appointed person to attend court and represent the trade union; Leonard Rufus Ochieng lacks such a mandate.
8. The respondent representative's concession that he lacks the requisite legal authority to attend to these proceedings has severe consequences.
9. Leonard Rufus Ochieng files the response and counterclaim herein for the respondent under such unauthorized representation.
10. Since 2021, the court has issued various orders and directions based on responses and returns filed by unauthorized persons.
11. This negates the essence of such records due to the lack of the requisite authority and mandate to act for the respondent union. Such attendance invalidates the proceedings to the extent of the attendance and representations made by Leonard Rufus Ochieng.
12. The extent of the illegalities committed under such unauthorized attendance and representations calls for an audit at the costs of the respondent union whose attendance herein has been sanctioned by its general secretary through the various attendances and representations through the filed Affidavits in support or reply to the claims by the claimant. The damage extends to several other matters before the court, including the referenced Mombasa ELRC Petition No.E004 of 2024.  
  
As noted above, an audit is imperative.
13. What this portends herein is that the response and counterclaim herein are invalid.  
  
The court shall expunge these records.
14. The claimant shall address and seek to address the court on the issue in dispute for determination in the absence of any valid responses by the respondent. Considering the written submissions by the claimant filed on 10 July 2024, which extensively addressed the counterclaim, which was declared invalid, the claimant shall file fresh written submissions.
15. Accordingly, the application dated 31 October 2024 is hereby dismissed, and the following orders issued;
  - a. There shall be an audit of claims filed by Leonard Rufus Ochieng that are pending before the court through the office of the Registrar, ELRC.



- b. The Deputy Registrar, Mombasa ELRC, is to address with the Registrar, ELRC, as (a) above and render a report to the court within 30 days; Mention 3 March 2025;
  - c. The records filed by the respondent herein are expunged;
  - d. The claimant to highlight the issue(s) in dispute given (c) above and file submissions within 14 days;
  - e. Mention for further directions as (d ) above on 17 February 2025 without compromise of (a) above;
  - f. The entity of Dock Workers Union to meet costs for process (a) above and costs to the claimant,
16. Further to the above, the Dock Workers Union is at liberty to publish its list of authorized officers to attend court with the Registrar, ELRC, who shall publish it with all the Judges of the Court.

**DELIVERED IN OPEN COURT AT MOMBASA ON THIS 30 DAY OF JANUARY 2025.**

**M. MBARŪ**

**JUDGE**

