



**Kenya Hotels & Allied Workers Union & another v Boma Hotel/Red Court Hotel
(Cause 1051 of 2018) [2025] KEELRC 366 (KLR) (13 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 366 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1051 OF 2018
L NDOLO, J
FEBRUARY 13, 2025**

BETWEEN

KENYA HOTELS & ALLIED WORKERS UNION CLAIMANT

AND

AGNES WANJIRU EVAN PROPOSED CLAIMANT

AND

BOMA HOTEL/RED COURT HOTEL RESPONDENT

RULING

1. By her Notice of Motion dated 18th June 2024, Agnes Wanjiru Evan seeks to be joined in these proceedings, as 2nd Claimant and a further order barring the Kenya Hotels & Allied Workers Union from continuing to represent her.
2. The Motion is based on the following grounds:
 - a. That the Applicant had instructed the Claimant Union to file the present claim and represent her but had since withdrawn all instructions;
 - b. That the *Constitution* of Kenya gives the Applicant the right to choose her representative in court and to withdraw instructions on representation;
 - c. That the Applicant is very much prejudiced by the ruling delivered on 15th February 2024.
3. In my ruling dated 15th February 2024, which the Applicant asserts is prejudicial to her, I stated as follows:

“...the power granted to trade unions to sue in their name on behalf of its members is a special one donated by the *Labour Relations Act*. This power is so special that trade unions are the



only entities allowed to file claims in this Court, on behalf of its members where the monthly salary falls below the Kshs. 80,000 threshold set by the Gazette Notice donating jurisdiction to the Magistrates' Courts. By law, the power granted to trade unions to approach this Court cannot be donated to any other person, including an Advocate or a member acting in person. A trade union cannot therefore be replaced as claimant in a case filed before this Court.”

4. By her present application, the Applicant invites the Court to reach a different verdict regarding an issue on which it has fully rendered itself. Such a move not only offends the basic legal principle of res judicata but also the rule barring a court from sitting on appeal over its own decisions.
5. For the foregoing reasons, I find and hold that the present application is without merit. I therefore proceed to dismiss it with no order for costs.
6. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 13TH DAY OF FEBRUARY 2025.

LINNET NDOLO

JUDGE

Appearance:

Agnes Wanjiru Evan (the Applicant in person)

Ms. Mbithe for the Respondent

