



Habwe & 2 others v Munyiri (Sued as the Deputy Presiding Bishop of PEFA) & 3 others (Employment and Labour Relations Petition E220 of 2024) [2025] KEELRC 290 (KLR) (6 February 2025) (Ruling)

Neutral citation: [2025] KEELRC 290 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS PETITION E220 OF 2024
MN NDUMA, J
FEBRUARY 6, 2025

BETWEEN

PAUL HABWE 1ST PETITIONER
PETER NJOROGE AMBUKA 2ND PETITIONER
PETER OMWANDA 3RD PETITIONER

AND

PAUL MUNYIRI (SUED AS THE DEPUTY PRESIDING BISHOP OF PEFA) 1ST RESPONDENT
REGISTERED TRUSTEES OF THE PENTECOSTAL ENVANGELISTIC FELLOWSHIP OF AFRICA (PEFA) 2ND RESPONDENT
THOMAS TEMBO TCHIPA (SUED AS THE SECRETARY GENERAL OF PEFA) 3RD RESPONDENT
JOHN OKINDA (SUED AS THE PRESIDING BISHOP OF PEFA) 4TH RESPONDENT

RULING

1. The Respondents raise a Preliminary Objection that this matter does not arise from an employee and employer relationship and so falls outside the jurisdiction of the court set out under Article 162(1) of the [constitution](#) as read with Section 12 of the [Employment and Labour Relations Court Act](#) (ELRC ACT).
2. The nub of the Complainant as set out in the petition is that the Petitioners who are pastors/ministers of Pentecostal Evangelistic Fellowship of Africa (PEFA) have sued the Registered Trustees and officials of the church aggrieved by the decision of the Respondents to unilaterally and unconstitutionally



- approve branch and collateral statutes to select churches within Nairobi Region without the requisite approval of the Nairobi Regional Council and the Executive Council as is required by the PEFA constitution.
3. That the unilateral action by the Respondents undermined the pastors, employees and or members of PEFA rights to freedom of association protected under Article 36 of the constitution of Kenya and the constitution of PEFA.
 4. That the violation of the PEFA constitution has caused internal strife, conflict and infighting and if left unmitigated could cause splitting and emergence of faction of church.
 5. The Petitioners allege that rights of PEFA pastors, members and employees to freedom from discrimination and equality before the law have been violated as protected under Article 27 of the constitution.
 6. The Petitioners pray for orders: -
 1. That this application be certified urgent and heard ex-parte in the first instance.
 2. That pending the hearing and determination of this application inter-parties, this Honourable Court be pleased to issue an order of status quo ante to maintain the status quo that existed before the Respondents' purported granting of cathedral status upon PEFA church Gimu, PEFA Ruai and PEFA Eastgate church and granting of branch status upon PEFA church Syokimau, PEFA church Manna, PEFA church Njiru, PEFA Soul Winners church and PEFA Utawala Cathedral.
 3. That pending the hearing and determination of this petition, this Honourable Court be pleased to issue an order of status quo ante to maintain the status quo that existed before the Respondents' purported granting of cathedral status upon PEFA church Gimu, PEFA Ruai and PEFA Eastgate church and granting of branch status upon PEFA church Syokimau, PEFA church Manna, PEFA church Njiiru, PEFA Soul Winners church and PEFA Utawala Cathedral.
 7. A plain consideration of the petition as pleaded discloses a cause of action by pastors and members of the Respondents decrying violation of their rights under Article 27 and 36 of the constitution with regard to freedom of association, freedom from discrimination and protection of the right to equality before the law.
 8. The petition does not disclose any dispute between employee(s) and employer(s) or one emanating from an employee and employer relationship.
 9. This is a pure civil dispute with a constitutional twist and involves in the main interpretation and enforcement of the PEFA constitution as read with the named provisions of the constitution of Kenya 2010, being Articles 27 and 36.
 10. The court is satisfied that the petition does not disclose a dispute covered under Article 162(1) of the constitution as read with section 12(1) of the ELRCA.
 11. Accordingly, this court lacks jurisdiction to entertain the suit and rather than striking the same out, the court has opted to down its tools from hearing and determining the petition and instead transfer the same to the Judicial Review and Constitutional Division of the High Court.

It is so ordered.

DATED AT NAIROBI THIS 6TH DAY OF FEBRUARY 2025.



MATHEWS NDUMA

JUDGE

Appearance:

Mr. Otieno for Petitioners

Mr. Akhaabi for Respondent

Mr. Kemboi – Court Assistant

