



REPUBLIC OF KENYA



**KENYA LAW**  
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**Mureithi v Kenya Revenue Authority (Cause E576 of 2024)  
[2025] KEELRC 915 (KLR) (21 March 2025) (Ruling)**

Neutral citation: [2025] KEELRC 915 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E576 OF 2024  
CN BAARI, J  
MARCH 21, 2025**

**BETWEEN**

**ROSEMARY NJERI MUREITHI ..... CLAIMANT**

**AND**

**KENYA REVENUE AUTHORITY ..... RESPONDENT**

**RULING**

1. Before Court is a Notice of Motion application dated 4<sup>th</sup> September, 2024, wherein the Applicant seeks orders THAT: -
  - a. Spent
  - b. Leave be granted to the Consumers Federation of Kenya (COFEK) to be joined and participate in this proceeding as an Interested Party;
  - c. Each party does bear their own cost to this application; and
  - d. Such orders as the court may deem fit.
2. The application is supported by grounds on the face thereof and the affidavit of Mr. Stephen Mutoro, the Secretary General of the Applicant.
3. The Applicant contends that the application is anchored on its mandate to advocate for safeguard of the rights and interests of consumers as protected under Article 46 of *the Constitution* of Kenya, 2010. It avers further, that the suit which it seeks to be enjoined to, is grounded on inter alia, the alleged unfair sacking of the Claimant as well as conduct committed by the Respondent.
4. It is the Applicant's assertion that the Claimant is an immediate former senior official of the Respondent, having served as the Chief Manager in Charge of Customs operations at the port of



kilindini, which position is critical to the role of the Respondent, and which directly impacts on the mandate of the Applicant.

5. The Applicant avers that the suit raises questions of leadership and integrity as per Chapter six of *the Constitution* as well as the values and principles of public service as espoused under article 232 of *the Constitution* which is tied to its mandate of advocating for recruitment to public office of individuals who pass the constitutional master, particularly to bodies whose work directly affects consumer rights.
6. That it is in the interest of justice and regard to public interests and the rights of Kenyan Consumers that the Applicant be joined as an Interested Party in these proceedings.
7. The Claimant did not oppose the motion. The Respondent opposed vide a replying affidavit sworn by a Dr. Emmah Omwenga on 31<sup>st</sup> October, 2024.
8. The Respondent argues that Applicant lacks sufficient justification for seeking to be joined in a purely employment dispute between the Claimant and the Respondent.
9. It is the Respondent's case that the Applicant, which according to its website describes itself as an organization committed to consumer protection, education, research, consultancy, litigation, anti-counterfeits campaign and business rating on consumerism and customer care issues, seeks to be joined in a purely contractual, employment dispute between the Claimant and the Respondent, which dispute does not evoke any consumerism issues.
10. That the Claimant has filed this suit as an aggrieved former employee of the Respondent, and has not raised any issues touching on the rights and interests of Kenyan and regional consumers in any sector of the economy, which is what the Applicant is involved in. It further argues that this claim evokes purely contractual issues for determination between the Claimant and the Respondent, and the Applicant offends the doctrine of privity of contract by seeking to be joined in this suit.
11. The Respondent avers that any party seeking to be joined as an Interested Party to an ongoing suit, assumes pivotal significance as it encapsulates individuals or entities whose direct interests are intricately entwined with the subject matter of a lawsuit. It further avers that the Applicant/Proposed Interested Party has not demonstrated how its direct interest as a protector of consumerism issues in Kenya is entwined in the employment contract dispute before this Honourable Court.
12. The Respondent states that the Claimant is solely challenging the termination of her contract of employment by the Respondent, and seeks various damages for the same. That any party seeking to be joined as an interested party in any suit must demonstrate a legitimate interest in the case, implying a direct and substantive connection between their interest and the subject matter under adjudication.
13. The Motion was canvassed by way of written submissions. Both parties filed submissions, and which have been duly considered.

### **Determination**

14. I have considered the application, the grounds and affidavit in support thereof, the Replying affidavit in opposition together with the rival submissions. The issue for determination is whether the Applicant/Intended Interested Party has justified its joinder to this suit.
15. The Supreme Court of Kenya laid down guiding principles for admission of an interested party in the case of *Trusted Society of Human Rights Alliance v Mumo Matemu SC Petition No. 12 of 2013 [2015] eKLR (Mumo Matemu case)* and which principles were reiterated and reaffirmed in *Francis K.*



Muruatetu and Another v Republic SC Petition No. 15 of 2015 as consolidated with Petition No. 16 of 2015 [2016] eKLR (The Muruatetu case) as follows:-

“(37) From the foregoing legal provisions, and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an interested party:

- i. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.
  - ii. The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.
  - iii. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.”
16. The Applicant’s contention is that the suit raises questions of leadership and integrity as per Chapter six of *the Constitution* as well as the values and principles of public service as espoused under Article 232 of *the Constitution*, which is tied to its mandate of advocating for recruitment to public office of individuals who pass the constitutional master; particularly to bodies whose work directly affects consumer rights.
  17. The Respondent on its part argues that the claim herein, evokes purely contractual issues for determination between the Claimant and the Respondent, and the Applicant offends the doctrine of privity of contract by seeking to be joined in this suit.
  18. In my view and as submitted by the Respondent, the suit herein concerns purely contractual issue between the Claimant and Respondent. The Applicant/Intended Interested party is in the business of consumer protection, education, research, consultancy, litigation, anti-counterfeits campaign and business rating on consumerism and customer care issues.
  19. The dispute before court does not at all evoke issues touching on consumerism as to invoke the Applicant’s interest.
  20. The Applicant has further not sufficiently demonstrated what personal interest or stake it has in the Claimant’s suit. From the motion and the submissions, I can only say that the Applicant’s interest is merely peripheral. It is also true that the Applicant has not depicted the prejudice it will suffer if the joinder was denied.
  21. The upshot is that the Applicant’s application dated 4<sup>th</sup> September, 2024, is devoid of merit and is hereby dismissed with no orders on costs.
  22. Orders accordingly.

**SIGNED, DATED AND DELIVERED AT NAIROBI THIS 21ST DAY OF MARCH, 2025**

**C. N. BAARI**

**JUDGE**

Appearance:

Mr. Kubo present for the Claimant



Mr. Nyaga h/b for Ms. Ng'ang'a for the Respondent

N/A for the Intended Interested Party

Ms. Esther S - Court Assistant

