



REPUBLIC OF KENYA



KENYA LAW
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**Kunga v Credit Bank PLC (Cause E555 of 2023)
[2025] KEELRC 685 (KLR) (6 March 2025) (Ruling)**

Neutral citation: [2025] KEELRC 685 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E555 OF 2023
L NDOLO, J
MARCH 6, 2025**

BETWEEN

NANCY SILVIA AKINYI KUNGA CLAIMANT

AND

CREDIT BANK PLC RESPONDENT

RULING

1. This ruling determines the Notice of Motion dated 15th August 2024, by which the Claimant seeks orders directing the Respondent to produce the following documents:
 - a. Policy document on posting of General Ledger Accounts;
 - b. Policy document on Archival of Vouchers;
 - c. Signed Job Description of a Branch Manager;
 - d. Access Register of the Vault for period between 14th December 2022 and March 2023;
 - e. Detailed description of all six entries passed through the General Ledger Accounts and officers who supervised them.
2. When the matter came up before me on 7th October 2024, Counsel for the Respondent stated that some of the documents had been supplied to the Claimant, while there was a dispute regarding two of the documents.
3. In a replying affidavit sworn by the Respondent's Head of Legal, Wainaina Francis Ngaruiya, on 18th October 2024, it is deponed that the Respondent has provided the Claimant with the following documents:
 - a. Respondent's Branch Policy dated 21st September 2022 in response to the request for the policy on posting of General Ledger Accounts and Archival of Vouchers;



- b. The Job Description of a Branch Manager signed by the Respondent on 15th March 2019.
4. Regarding the request for the Vault Access Register for period between 14th December 2022 and March 2023, the Respondent protests that the information sought is highly sensitive and confidential, whose release to the public would compromise the integrity and safety of the Respondent's Vault to the detriment of the Respondent's customers.
 5. Ngaruiya depones that the Access Register sought by the Claimant contains data of customers and employees, whose disclosure would lead to a breach of the provisions of Article 31 of *the Constitution* and Sections 25 and 26 of the Data Protection Act. Ngaruiya adds that the Claimant has not demonstrated how this information is relevant and necessary to her claim.
 6. According to the Respondent, the request for detailed description of all six entries passed through the General Ledger Accounts and officers who supervised them, is ambiguous and therefore incapable of compliance or enforcement.
 7. Ngaruiya concludes that the Claimant has all the documents she requires to prosecute her claim. He accuses the Claimant of delaying this matter because she is currently enjoying an injunction that is meant to last until the claim is heard and determined.
 8. In response to Ngaruiya's replying affidavit, the Claimant swore a further affidavit on 31st October 2024, stating that the Respondent has not done enough to furnish her with all the documents she requires to prosecute her claim.
 9. The Claimant depones that the Branch Policy produced by the Respondent is inadequate since a different Policy was in use during the period running from 4th November 2019 to 24th December 2023.
 10. The Claimant takes the view that the Respondent cannot invoke the right to privacy as a shield against disclosure, terming such invocation as a prejudice to her case and the rights to fair hearing and access to information.
 11. On 31st July 2024, I delivered a ruling flowing from a similar application brought by the Claimant. In that ruling, I gave guidance regarding discovery proceedings.
 12. Relying on the decisions in *Concord Insurance Co Ltd. v NIC Bank Ltd* [2013] eKLR and *Selecta Kenya Gmbh & Co. Kg & another v Peter Wanderi* [2015] eKLR I held that an application for discovery must be accompanied by a justification for production, based on demonstrable relevance and necessity for each document sought.
 13. Apart from listing a catalogue of documents, the Claimant has made no effort to demonstrate how any of the documents would advance her case. I will reiterate the holding by Lenaola J (as he then was) in *Timothy Njoya v Attorney General* [2014] eKLR, that a party seeking production of documents must state clearly the information required, the right they wish to advance and how the information sought would assist in the advancement of that right.
 14. It seems to me that what the Claimant seeks to achieve is to coerce the Respondent to prove its pleadings at the discovery stage, which would amount to abuse of the court process (see *National Social Security Fund Trustees v Dr. Sally Kosgei & another* [2005] eKLR).
 15. For the foregoing reasons, I find and hold that the Claimant's application dated 15th August 2024 is without merit.
 16. The said application is therefore dismissed with costs in the cause.



17. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 6TH DAY MARCH 2025

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JUDGE

Appearance:

Mr. Ojienda for the Claimant

Ms. Makena for the Respondent

