



Ikiao v Methodist Church in Kenya Trustees Registered & 2 others; Kimuu & 5 others (Interested Parties) (Cause E133 of 2024) [2025] KEELRC 1245 (KLR) (5 May 2025) (Ruling)

Neutral citation: [2025] KEELRC 1245 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE E133 OF 2024**

**M MBARÚ, J
MAY 5, 2025**

BETWEEN

BISHOP JOSHUA MITHIKA IKIAO CLAIMANT

AND

**METHODIST CHURCH IN KENYA TRUSTEES REGISTERED 1ST
RESPONDENT**

METHODIST CHURCH IN KENYA 2ND RESPONDENT

**PRESIDING BISHOP OF THE METHODIST CHURCH IN
KENYA 3RD RESPONDENT**

AND

REV PATRICK MWITI KIMUU INTERESTED PARTY

REV JOSHUA KINYUA RINKANYA INTERESTED PARTY

REV EVANS KITHURE KIRIMI INTERESTED PARTY

ABRAHAM JOHN MWENDA INTERESTED PARTY

DAVID KABURIA INTERESTED PARTY

SAMSON MUTURI INTERESTED PARTY

RULING

1. The respondents, the Methodist Church in Kenya Trustees, the Methodist Church in Kenya, and the Presiding Bishop of the Methodist Church in Kenya filed an application dated 11 February 2025, against the claimant/respondent and other persons acting under his directions, including the interested parties. The application is premised under the provisions of Article 1, 159 and 160 of [the constitution](#) and Section 5 of the [Judicature Act](#) seeking orders that,



1. Spent.
 2. Spent.
 3. An injunction do issue restraining the respondent and other people purporting to act under him, including Rev. Joshua Rinkana, Rev. Patrick Kimuu, Rev. Evans Kirimi, Samson Mturi, David Kaburia and Abraham John Mwenda, from holding any office and conducting any official business of the Methodist Church pending the hearing and determination of the instant application.
 4. The court be pleased to issue summons to the respondent and other people purporting to act under him, including Rev. Joshua Rinkana, Rev. Patrick Kimuu, Rev. Evans Kirimi, Samson Mturi, David Kaburia and Abraham John Mwenda, to appear before this court on a date set to explain why orders issued on 29 January 2025 have been breached and show cause why they should not be held in contempt of court for willful disobedience of those orders
 5. The respondent and others purporting to act under him, including Rev. Joshua Rinkana, Rev. Patrick Kimuu, Rev. Evans Kirimi, Samson Mturi, David Kaburia, and Abraham John Mwenda, be cited for contempt of court for disobeying the orders issued on 29 January 2025.
 6. In default of prayers 4 and 5 above, warrants of arrest are issued against the respondent and other people purporting to act under him, including Rev. Joshua Rinkana, Rev. Patrick Kimuu, Rev. Evans Kirimi, Samson Mturi, David Kaburia, and Abraham John Mwenda, and that they be committed to civil jail for six months or any other sanction as this court may deem appropriate.
 7. Costs of this application be shall be borne by the claimant/respondent.
2. The application is supported by the affidavit of Bishop Isaya Deye, the 3rd respondent, who avers that on 17 December 2024, the claimant and others listed as interested parties made a public announcement that they had detached themselves from the Methodist Church/conference until specific issues were addressed. The claimant's action contravened the 2nd respondent's Standing Orders (the Church Constitution), thereby leading to his suspension.
 3. Bishop Deye avers that the claimant, who filed this suit, was suspended. Through an application dated 29 January 2025, the respondents sought interim orders against the claimant, and the court directed that;

That orders herein remain in force, and that the claimants Lawrence Kinoti & Others remain suspended from duty, with the respondent pending attendance on 24 February 2025.
 4. The effect of the claimant's suspension by the respondents and the Court Orders was that the respondent was barred from handling any official business of the Methodist Church, which included holding any office of the church, giving administrative orders, holding any mass, and presiding over any functions in the name of the Methodist Church.
 5. While the claimant was under suspension, in blatant and contemptuous disregard of the court orders, he continued to perform the following acts,
 - a. The claimant physically holds the office of the Synod Bishop and continues to do so illegally, given that the Presiding Bishop is supposed to hold that office under Standing Order 33(6).



- b. After the Presiding Bishop assumed office under the Standing Orders, the claimant brought goons accompanied by police officers to bar him from taking office, stating that the claimant was still in office.
 - c. The claimant blocked by [lacing police officers the Mombasa Synod headquarters compound, both the Presiding Bishop and the congregants from accessing the church premises.
 - d. The claimant denied access to a newly appointed minister appointed by the respondents, Rev. James Rukaro, who was supposed to take office from 1 January 2025.
 - e. The claimant has illegally and without consulting the respondents appointed the following people to take over part of the Mombasa Synod, and those people, aware of the Standing Orders, have taken the respondent's offices in disregard of those orders, including,
 - i. Rev. Joshua Rinkanya as a Superintendent Minister,
 - ii. Rev. Patrick Kimuu as a Synod Secretary,
 - iii. Rev. Evans Kirimi as a Circuit Minister,
 - iv. Samson Mturi as a Circuit Steward who closed and locked out the Minister out of the Circuit Manse under the claimant's orders while on suspension,
 - v. David Kaburi as a Synod treasurer,
 - vi. Abraham John Mwendwa as chairperson of the development of Mombasa.
 - f. The claimant has illegally closed the manse for over 3 weeks in the Changamwe circuit.
 - g. The claimant, purporting to be an official of the respondents, illegally demanded police assistance/security to accompany him to perform official church duties.
6. Bishop Deye avers that the actions of the claimant and other persons named contemnors continue to willfully disobey court orders to the detriment of the respondents and the congregants. The court should address this contempt as it continues to undermine the dignity and authority of the court. It is deliberate and calculated to bring the court into disrepute and interfere with the administration of justice. Unless the claimant and the persons under his directions, being Rev. Joshua Rinkana, Rev. Patrick Kimuu, Rev. Evans Kirimi, Samson Mturi, David Kaburia, and Abraham John Mwenda, are restrained through an order of the court from continuing with their conduct and conducting official business of the Methodist Church. Unless the court sanctions the clamant and the cited persons, they will continue disobeying the orders issued on 29 January 2025, and the application herein should be allowed with costs. Such will safeguard the rule of law, which is fundamental to the administration of justice.
 7. In reply, the claimant filed Notice Of Withdrawal Of Suit on 6 February 2025.
 8. The claimant later instructed new advocates to file a Replying Affidavit to the respondents' application, except that the Notice Of Withdrawal Of Suit is on record.
 9. The claimant filed an application dated 27 March 2025 seeking my recusal.
 10. The court declined to allow the claimant's Notice Of Withdrawal Of Suit so the respondents could address the instant application.



11. The cited persons, including Rev. Joshua Rinkana, Rev. Patrick Kimuu, Rev. Evans Kirimi, Samson Mturi, David Kaburia, and Abraham John Mwenda, filed separate applications seeking to be enjoined as interested parties. This was allowed, and they have filed Replying Affidavits.
12. In reply, the interested parties filed their Replying Affidavits.
13. The affidavits and written submissions are analysed, and the issues for determination are;
 - Whether the court has jurisdiction to address a contempt of court application.
 - Whether the court should issue the orders sought by the respondents.
 - Who should pay the costs?

Determination

14. The jurisdiction of the court to address a contempt application was challenged. The interested parties submitted that the respondents have not invoked the proper legal provisions in England. However, the instant application is premised under Section 5(1) of the *Judicature Act*, which provides;
SUBPARA(5)(1)
The High Court and the Court of Appeal shall have the same power to punish for contempt of court as is for the time being possessed by the High Court of Justice in England and that power shall extend to upholding the authority and dignity of Subordinate Courts.
15. This court is placed at the same level as the High Court under Article 162 of *the Constitution*. The power and mandate exist to address and sanction any contempt of court. See Ibrahim Haji Issak v Kenya Meat Commission & another [2013] KEELRC 106 (KLR) and Henry Musemate Murwa v Francis Owino, Principal Secretary, Ministry of Public Service, Youth And Gender Affairs & another [2021] KEELRC 1114 (KLR).
16. The claimant filed this claim to challenge the respondents' order of suspension from office. The claim dated 30 December 2024 was accompanied by an application filed under Certificate of Urgency seeking restraining orders against the respondents.
17. On 20 January 2025, parties attended court and agreed to proceed with court-annexed mediation. The court allowed this process on conditions that;
 - The claimant shall remain on suspension as directed by the respondent to allow parties to proceed with Court Annexed Mediation and to report back to the court in 30 days on 24 February 2025.
18. On 11 February 2025, the respondents filed the instant application, seeking urgent orders to restrain the claimant and others under his direction from disobeying orders issued on 29 January 2025.
 - No court orders were issued on 29 January 2025. The court had no session on this date.
19. The material session was on 20 January 2025, during which parties attended and were referred to the court-annexed mediation. Taking into account the issue in dispute, the alleged suspension of the claimant by the respondents through oral notice of the third respondent on 29 December 2023 [should read 29 December 2024], the court directed the claimant to remain on suspension as directed, attend the medication, and report back to court on 24 February 2025.



20. In an application dated 29 January 2025, the respondents applied to stay proceedings pending before the Chief Magistrates Court in Mombasa, MCCC No. E069 of 2025 to allow the prosecution of this case. In the application, the 3rd respondent avers that the claimant filed this claim, and the court issued interim orders directing him to remain on suspension pending the hearing and determination of his claim and to proceed on mediation to try and resolve the matter out of court. However, he accuses the claimant of frustrating the court directions and orders issued on 20 January 2025, where Mr. Lawrence Kinoti & 8 Others filed an application in Mombasa CMCCC E069 of 2025 against the respondents, seeking to deter them from performing their leadership and administrative roles within the 1st respondent Church.
21. Therefore, the respondents were aware that the orders sought to be enforced and from which contempt is said to arise were issued on 20 January 2025 rather than 29 January 2025.
22. Fundamentally, the respondents have not filed a response to the claim herein. Can this be an error or mistake following the initiation of court-annexed mediation or due to the claimant purporting to withdraw the suit to avoid the orders issued on 20 January 2025?
23. What is clear is that without a response or counterclaim, the orders sought in the instant application cannot stand alone. Whether the referenced orders were issued on 20 or 29 January 2025, the basis must be founded on a plaint, claim, or counterclaim. Once addressed, the court must be able to determine the issue in dispute with finality based on a claim or counterclaim where the claimant's conduct aggrieves the respondents.
24. The interim orders sought in the application dated 11 February 2025 lack proper foundation without filing a response to the claim or a counterclaim against the claimant.
25. Where indeed the claimant has committed the acts chronologised by Bishop Deye in his Supporting Affidavit, including the alleged criminal acts of seeking goons and other persons to disrupt the orderliness of business within the respondent's Church, such cannot be cured through the instant application. A reply, counterclaim to the allegations he seeks to address in the Memorandum of Claim, is necessary. From the act of suspension on 29 December 2024, as alleged through oral notice by the 3rd respondent, Bishop Deye, the potential damage can only be addressed by the respondents procedurally and appropriately through a response. To leave the claimant's claim without a response cannot achieve the desired results through the instant application. Considering the various acts of alleged contempt of court, the respondents will remain exposed to further loss and damage.
26. It is not lost to the court that the claimant's conduct is wanting.
27. As outlined above, once the claimant moved the court herein on 31 December 2025, he became subject to court directions and orders. He cannot hide behind the shroud of his right to withdraw his suit to avoid addressing contempt of court orders.
28. A suspension within employment and labour relations and for connected purposes is a lawful and legitimate direction. Once ordered to proceed on suspension, the claimant should have been obliged to administratively allow the respondents' address. Where the claimant felt aggrieved, he filed the instant suit. He acceded to the court's jurisdiction to assert his rights regarding the alleged wrongful suspension by the 3rd respondent.
29. Upon the court's directions on 20 January 2025, the claimant consented to the court-annexed mediation.



30. Where matters did not seem to favour his course, the claimant sought to withdraw the suit upon the application seeking to cite him for contempt. Upon the court's directions on the application, the claimant sought my recusal.
31. Contempt of court is not about the judge. It has never been. It is about safeguarding the rule of law, which is fundamental in administering justice. It has nothing to do with the integrity of the judiciary, the court, or even the personal ego of the presiding judge. This position is aptly captured in the case of *Econet Wireless Ltd v Minister for Information & Communication of Kenya & Another* [2005] eKLR, that,
32. Where an application for committal for contempt of court orders is made the court will treat the same with a lot of seriousness and urgency and more often will suspend any other proceedings until the matter dealt with and if the contempt is proven to punish the contemnor or demand that it is purged or both. For instance an alleged contemnor will not be allowed to prosecute any application to set aside orders or take any other step until the application for contempt is heard. The reasons for this approach are obvious – a contemnor would have no right of audience in any court of law unless he is punished or purges the contempt.
33. In this case, despite the claimant seeking to withdraw his case to avoid the contempt proceedings, it was imperative to stop all else and address the safeguarding of the rule of law, which is fundamental to the administration of justice.
34. Save for the respondents' lack of reference to the non-existent orders of 29 January 2025, which are incapable of being disobeyed, the claimant and other persons under his direction conduct is wanting. The respondents must address the suspension accordingly and appropriately. This shall suffice.
35. The Notice of Withdrawal Suit dated 6 February 2025 is hereby adopted as the court's final order. The notice came after the respondents' great efforts to defend these proceedings. Costs are due and assessed under section 12(4) of the *Employment and Labour Relations Court Act* at Ksh. 100,000 to be paid within 30 days, after which the same shall be due with interest at the court rate from this date until paid in full.
36. For reasons outlined above, the application dated 11 February 2025 is declined. The suit is marked withdrawn. The claimant will pay the respondents Ksh. 100,000 within 30 days.

Orders accordingly.

DELIVERED IN OPEN COURT AT MOMBASA THIS 5TH DAY OF MAY 2025

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Japhet

..... and

