



**Njora v Letshego Kenya Limited (Cause E475 of 2025)
[2025] KEELRC 1899 (KLR) (27 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1899 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E475 OF 2025
SC RUTTO, J
JUNE 27, 2025**

BETWEEN

RITA NYOKABI NJORA APPLICANT

AND

LETSHEGO KENYA LIMITED RESPONDENT

RULING

1. What is before this Court for determination is the Claimant/Applicant's Notice of Motion dated 27th May 2025, through which she seeks the following orders;
 1. Spent.
 2. Spent
 3. Spent.
 4. Spent.
 5. That pending the hearing and determination of this Claim this Honourable Court be pleased to grant a conservatory order to suspend/stay the Respondent's letter dated 17th March, 2024 (sic) transferring the Applicant from the Leal Department to the Collections Department as a Collection Officer or otherwise in any other manner replacing the Applicant in her position as the Legal Business Partner of the Respondent.
 6. That upon grant of order 5 above and pending the hearing and determination of this Claim this Honourable Court be pleased grant an order compelling the Respondent herein to allow the Applicant to continue with her normal duties of employment under the contract of employment between the Applicant and the Respondent.



7. That pending the hearing and determination of this Claim this Honourable Court be pleased to issue a conservatory order restraining the Respondent either by themselves, employees, servants and/or agents from, intimidating, harassing, or interfering with the Applicant in relation to her duties as the Respondent's Legal Business Partner.
8. Cost of the Application be provided for.
2. The Motion is premised on the grounds appearing on its face and the Claimant's Supporting Affidavit sworn on 27th May 2025. Grounds in support of the Motion are that the Claimant is an Advocate of the High Court of Kenya with 18 years of professional experience.
3. She avers that vide a contract dated 26th July 2022, she was employed by the Respondent as the Legal Business Partner with effect from 29th August 2022.
4. According to the Claimant, her tribulations with the Respondent began on or about 14th August 2024, when she was issued with a Notice to Show Cause alleging that she was negligent in exercising her role as the Respondent's Legal Business Partner. She responded to the show cause letter, whose contents she says she found shocking and she outlined all the steps she had undertaken to secure the Respondent's interests in respect of the allegations she was being accused of. She did not receive feedback on the disciplinary process commenced against her and she was never informed whether her response was considered and the disciplinary process against her terminated.
5. The Claimant further avers that on several occasions, between July and September 2024, the Respondent's Chief Executive Officer would summon her either individually or in the presence of other staff members and non-staff members and issue threats, harass and intimidate her with threats of sacking if he found any slight mistake in the performance of her roles.
6. It is the Claimant's further assertion that vide a letter dated 17th March, 2024, the Respondent transferred her and changed her job designation from the Legal Department as Legal Business Partner of the Respondent to the Collections Department as a Collections Officer in contravention of Sections 10 (5) and 13 of the *Employment Act*, 2007.
7. That vide a letter dated 18th March, 2025, the Claimant wrote to the Respondent seeking clarification on the transfer and change of her designation, noting that the same does not align with her professional qualifications and she was not consulted prior to the transfer decision and change of her designation and neither was she given an opportunity to raise concerns regarding her suitability and role.
8. The Claimant's letter elicited no response from the Respondent and vide a letter dated 14th April, 2025, she wrote another follow-up letter on the concerns raised in her letter dated 18th March, 2025.
9. It is averred by the Claimant that the Respondent left her in limbo for over one month, offering no response to her concerns regarding the transfer.
10. The Claimant further avers that on or about 19th March 2025, meetings were held between the Respondent's head of Risk & Compliance and her direct reportees, i.e, the Legal Officer and Security Perfection Officer, where the two were informed of the change in her role and their revised reporting lines.
11. The Claimant avers that on or about 19th May, 2025, she received a letter dated 16th May, 2025, directing her to immediately report to the new department as per the transfer letter. That while the said letter states that the transfer was temporary, it fails to address the Claimant's concerns regarding the criteria of the re-designation and the fact that the transfer does not align with her professional qualifications and career development.



12. The Claimant further avers that while the said letter states that following the Company's strategic shift towards the recovery of outstanding loans, the volume of her work has purportedly diminished, it further states that her role and expertise are deemed redundant, and that the Legal Officer would assume responsibility for the legal department's functions, and that the Claimant's should immediately hand over all legal matters to the Legal Officer. In the Claimant's view, this directive is inconsistent with the assertion of reduced workload and further shows the Respondent's intention to hound her out of office by replacing her with the Legal Officer, who is her junior.
13. The Claimant further avers that following her transfer, her line manager ceased communication with her and deliberately avoided engagement with her, and her responsibilities have been reassigned to her Legal Assistant without prior notice to and/or consultation with her.
14. The Claimant further states that since her unlawful transfer, the Respondent has deliberately treated her unfairly.
15. According to the Claimant, her internal transfer by the Respondent is neither a promotion nor a lateral transfer and the same is actuated with malice, is illegal, repugnant and inconsistent with inter alia *the Constitution*, the *Employment Act*, the Fair Administrative Actions Act, and the Respondent's Human Resource Policy. In her view, this is meant to harass and intimidate her out of employment.
16. The Claimant further avers that the qualifications for the position of Legal Business Partner are inter alia a Bachelor of Laws (LLB) Degree from a reputable university. She is aware that the qualifications for the Collections Officer role require a Bachelor's degree in Risk Management, Finance, Business Administration and Economic and experience in collections within financial services.
17. It is the Claimant's assertion that her qualifications align with her position as the Legal Business Partner and not the collection's role that she has been transferred to. She contends that her transfer violates the provisions of Clause 4.2.2.8.1 of the Respondent's Compliance and Legal Risk Policy.
18. In the Claimant's view, the transfer does not align with her career development as an experienced Advocate with 18 years' professional experience.
19. It is the Claimant's further assertion that she has invested heavily in enhancing her expertise in the legal field and the transfer and change of her designation from the Respondent's Head of Legal to a Collection Officer will throw her into uncharted waters as she has no training in this new area.
20. She avers that unless the order of injunction sought is granted in the first instance, the Respondent herein will proceed with its premeditated endeavor to unlawfully execute the decision to transfer her and change her job designation and such action will make her to suffer irreparable damage and hound her out of office thus rendering this application nugatory.
21. The Claimant filed a Further Affidavit sworn on 10th June 2025, in which she avers that following the filing of the instant suit, the Respondent insists that she proceed to the Collections Department and that on or about 9th June 2025, she received an email from the Respondent instructing her to sign off performance targets for the Collections Officer role.
22. In her view, her transfer to the collections department as a Collections Officer is a demotion.
23. The Claimant contends that the Respondent is hell bent on edging her out of employment since she is expected to work and meet performance targets in a role that she is not qualified for and which does not align with the terms of her employment contract.



24. That the Respondent's action reeks of malice, unfair labour practice and meant to frustrate and humiliate her in the performance of her duties under her contract of employment.
25. The Application is opposed through a Replying Affidavit sworn on 10th June 2025, by the Respondent's Head of Operations and IT, Irshad Muttur.
26. Mr. Muttur avers that the Respondent has analyzed its business activities and has identified that it is presently facing significant collection challenges arising from non-performing loans presently exceeding Kshs. 2 billion. This has adversely affected its revenues, prompting a strategic focus on recovering all outstanding loans to sustain operations and business.
27. According to Mr. Muttur, the Respondent enlisted staff from various departments, including IT, Legal and Operations & Finance to assist in this massive collection campaign.
28. That in light of the above strategic focus, the Claimant, among other staff was requested to assist. However, the Claimant has refused to do so, and has filed the instant Application, more than three months late.
29. Mr. Muttur deposes that the Claimant is guilty of material non-disclosure in that she has failed to point out that: her employment contract expressly required her to perform tasks as directed by the management which may not directly be related to her job description; The Resourcing Policy allows for departmental transfers, including for short term period not exceeding three months; and that despite the management's directive issued in March 2025, she has yet to comply in clear breach of her employment contract and frustrating the Respondent's operations.
30. He is advised by the Respondent's Advocates, which advice he verily believes to be true and correct that there was no change in the Claimant's contract, as she expressly agreed to undertake tasks not directly related to her job description. That in any event, the Claimant admits that she was consulted in the meeting of 17th March 2025 and was promptly issued with a statement dated 17th March 2025 confirming inter alia that except for the temporary transfer, her other terms and conditions of employment remained as per her employment contract.
31. Mr. Muttur further deposes that despite clarifying that the transfer was temporary so as to boost collection during the relevant campaign period, the Claimant has to date failed to comply in breach of her employment contract.
32. Mr. Muturr further denies the claims by the Claimant that the Respondent intends to hound her out of office or avoid engagements with her. In his view, no evidence has been led to substantiate these assertions, as the Respondent's record confirms continued communication between the Claimant and her line manager.
33. Mr. Muttur further avers that the Claimant's demands and claims that the Respondent cannot assign tasks to other employees without consulting her would amount to a unilateral variation of the employment contrary to law.
34. According to Mr. Muturr, the Claimant cannot purport to dictate the manner in which the Respondent distributes staff duties, especially after she had been transferred to another department.
35. Mr. Muttur denies that the Respondent's actions were actuated by malice and illegal. He asserts that, to the contrary, the Claimant has conveniently failed to disclose that the statement of 17th March 2025 provided inter alia that all her other terms and conditions of employment, including salary and remuneration, remained as per her employment contract. That further, the Claimant has omitted the



fact that under the applicable policy, she could be transferred to another department altogether that is not directly related to legal.

36. The Respondent filed a Further Affidavit sworn on 16th June 2025 by Irshad Muttur, who avers that the Claimant's transfer was a business decision aligned with the employment contracts and the Respondent's policy to enhance collections.
37. Mr. Muttur believes that the transfer does not constitute a demotion as the Claimant's other terms of employment, including the salary and other benefits, remained unchanged.

Submissions

38. The Notice of Motion was canvassed by way of written submissions. Both parties complied and the Court has given due consideration to their respective submissions. On the part of the Claimant, it has been submitted that her transfer and change of her designation from Legal Business Partner to a Collections Officer is an alteration of her employment contract.
39. It is the Claimant's submission that the Respondent ought to have heard her before effecting the transfer to ensure that her skills and experience match the role she is being transferred to.
40. In further support of the Claimant's application, it has been submitted that the Respondent disregarded the provisions of its Compliance and Legal Risk Policy and the transfer was done arbitrarily to the disadvantage of the Claimant contrary to the provisions of Sections 10(5) and 13 of the Employment Act, 2007 and Article 41 of the Constitution of Kenya 2010.
41. While admitting that the Respondent reserves the right to exercise its managerial prerogative as an employer, the Claimant contends that the same must be done within the confines of the law.
42. According to the Claimant, she has successfully proven a prima facie case on the ground that her transfer is unlawful as the same does not comply with the provisions of Article 41 of the Constitution of Kenya, the Employment Act, 2007, the Respondent's Human Resource Policy and its Compliance and Legal Risk Policy and there is high likelihood that upon the hearing of the main suit, the orders will be granted as sought.
43. With respect to irreparable injury, the Claimant has posited that damages cannot be a substitute in a situation where there is a clear breach of the statute and the Constitution. To reinforce this position, the Claimant has sought to rely on the case of Olympic Sports House Limited v School Equipment Centre Limited [2012] eKLR.
44. Still on this issue, the Claimant posits that if the Orders sought in the Notice of Motion Application are not granted, she stands to suffer irreparable damage.
45. Submitting against the Motion, the Respondent has posited that the Claimant has failed to demonstrate any violation of her rights under the employment contract, the Respondent's Policy, or the Employment Act. That to the contrary, the Claimant has commenced the instant proceedings without disclosing material facts which show that her temporary transfer is a legitimate exercise of the Respondent's prerogative within the bounds of her employment contract and the applicable policies.
46. It is the Respondent's position that by accepting the employment with the Respondent, the Claimant agreed to be bound by these contractual terms and policies and she cannot now claim that their implementation violates her rights.
47. From the Respondent's standpoint, the transfer is not arbitrary or targeted at the Claimant, but is necessitated by genuine business exigencies. According to the Respondent, it faces collection challenges



exceeding 2 billion shillings, which directly impact its financial stability and operational viability. That the deployment of staff from various departments to assist is a reasonable and proportionate response to these challenges.

48. The Respondent has further contended that the Claimant was consulted prior to the transfer in a meeting held on 17th March 2025, as she has admitted in the letter dated 18th March 2025. That subsequently, the Claimant was issued with a statement dated 17th March 2025 confirming inter alia that, except for the temporary transfer, her terms and conditions of employment remained as per her employment contract.
49. To this end, the Respondent submits that there is no basis at all for the Claimant to contest the transfer, which is legally permissible in the employment contract and the policy, and which complied with the law.
50. The Respondent has further argued that the Claimant has not demonstrated that she would suffer injury that cannot be addressed by way of damages. According to the Respondent, the temporary nature of the transfer, coupled with the preservation of her salary and benefits, negates any claim of substantial prejudice.
51. In the same vein, the Respondent has submitted that there is no evidence that it is impecunious as to fail to pay the damages applicable should the Court find that the transfer was irregular in the absence of conservatory orders sought. To augment this position, the Respondent has referenced the case of *Nguruman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR.
52. The Respondent further argues that, in contrast, granting the conservatory orders would cause it significant prejudice and potentially to other employees who have complied with similar transfer directives. That this would undermine the management authority and operational efficiency during a critical period.
53. That further, granting the orders would disrupt the Respondent's collection efforts at a critical time, potentially exacerbating the financial challenges and affecting the Respondent's ability to serve its customers and stakeholders.
54. In conclusion, the Respondent is of the view that the Claimant has failed to meet the threshold for the grant of conservatory orders and, to this end, it has urged the Court to dismiss the Motion with costs.

Analysis and Determination

55. The Court has considered the Notice of Motion, the Responses by the Respondent as well as the rival submissions and evidently, the singular issue that arises for determination is whether the Claimant has satisfied the requirements for grant of an injunction at this interim stage. Differently expressed, should the Court issue an order suspending the Respondent's letter dated 17th March 2025, transferring the Claimant from the Legal Department to the Collections Department as a Collections Officer pending the hearing and determination of the main suit?
56. It is trite law that an injunction is a discretionary remedy, granted on the basis of evidence and sound legal principles. Principles that guide the Court in an application of this nature now form a well-trodden path. This is taken from the celebrated case of *Giella v Cassman Brown & Co Ltd* (1973) E.A. In this regard, the principles to be considered are: -

“Firstly, an applicant must show a prima facie case with a probability of success. Secondly, an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable injury, which would not adequately be compensated by an award of



damages. Thirdly, if the Court is in doubt, it will decide an application on the balance of convenience.”

57. Applying the above principles to the case herein, the pertinent question that this Court must answer is whether the Claimant herein has established a prima facie case with a probability of success and whether she will suffer irreparable injury should the orders be denied. Further, in the event of doubt, does the balance of convenience tilt in her favour?
58. On the first limb, the Court of Appeal in the case of *Mrao Ltd v First American Bank of Kenya Ltd & 2 others* [2003] eKLR, defined a prima facie case as follows: -
- “So, what is a “prima facie case” I would say that in civil cases it is a case in which on the material presented to the Court a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter. A prima facie case is more than an arguable case. It is not sufficient to raise issues but the evidence must show an infringement of a right, and the probability of success of the Applicant’s case upon trial. That is clearly a standard, which is higher than an arguable case.”
59. And further, the Court of Appeal in *Nguruman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR held that:
- “The party on whom the burden of proving a prima facie case lies must show a clear and unmistakable right to be protected which is directly threatened by an act sought to be restrained, the invasion of the right has to be material and substantive and there must be an urgent necessity to prevent the irreparable damage that may result from the invasion. We reiterate that in considering whether or not a prima facie case has been established, the court does not hold a mini trial and must not examine the merits of the case closely. All that the court is to see is that on the face of it the person applying for an injunction has a right which has been or is threatened with violation....”
60. Drawing from the above precedents, it is clear that the Claimant herein is required to show that her right has been violated or is threatened with violation by the Respondent, in which case, the burden would shift to the Respondent to explain or rebut the Claimant’s claim. It should also be appreciated that at this juncture, the Court is not conducting a mini-trial, hence will not examine the evidence presented microscopically.
61. Arguing in support of the Application, the Claimant has averred that her transfer and change of job designation from the Legal Department as Legal Business Partner of the Respondent to the Collections Department as a Collections Officer is in contravention of Sections 10 (5) and 13 of the *Employment Act*, 2007.
62. The Claimant has further contended that her transfer is neither a promotion nor a lateral transfer and the same is actuated with malice, is illegal, repugnant and inconsistent with *the Constitution*, the *Employment Act*, the Fair Administrative Actions Act, and the Respondent’s Human Resource Policy. In her view, this is meant to harass and intimidate her out of employment. She has further termed the said transfer a demotion. The Claimant has gone further to cite Clause 5.3.8.4 of the Respondent’s Human Resource Manual Policy which provides for transfer.



63. It is not in doubt that the Claimant's assertions would require an interrogation by the Court and would call for rebuttal by the Respondent. Indeed, the claims raised by the Claimant cannot be termed as frivolous.
64. In its Replying Affidavit, the Respondent has consistently maintained that the Claimant's employment contract expressly required her to perform tasks as directed by the management, which may not directly be related to her job description.
65. The Respondent has further argued that its Resourcing Policy allows for departmental transfers, including for a short-term period not exceeding three months and which may entail a change of position through inter alia departmental change and job change.
66. Bearing in mind the gist of the Response by the Respondent, it is evident that at the hearing of the main suit, the Court will be required to interrogate and determine the Claimant's assertions in light of the provisions of Sections 10(5) and 13 of the *Employment Act* against the Respondent's contention that the Claimant's transfer was in line with her Employment Contract and did not amount to a demotion.
67. Applying the principles set out in *Mrao Ltd v First American Bank of Kenya Ltd (supra)*, this Court is satisfied that the Claimant has proved that she has a prima facie case.
68. It is trite that establishing a prima facie case is not an end in itself and cannot form a sufficient basis to grant an interlocutory injunction, hence the Court must further be satisfied that the injury to be suffered by an applicant in the event the injunction is not granted will be irreparable.
69. In the case of *Nguruman Limited v Jan Bonde Nielsen & 2 others [supra]*, the Court of Appeal, in considering what constitutes an irreparable injury, reckoned as follows:

“An injury is irreparable where there is no standard by which their amount can be measured with reasonable accuracy or the injury or harm is such a nature that monetary compensation, of whatever amount, will never be an adequate remedy.”
70. In her Application, the Claimant has categorically stated that she is an Advocate of the High Court of Kenya and that her qualifications align with her position as the Legal Business Partner and not the collection's role that she has been transferred to. She further contends that the qualifications for the position of Legal Business Partner is inter alia a Bachelor of Laws (LLB) Degree from a reputable university, while the qualifications for the Collections Officer role require a Bachelor's degree in Risk Management, Finance, Business Administration and Economic and experience in collections within financial services.
71. It is the Claimant's further contention that her transfer does not align with her career development as an experienced Advocate with 18 years' professional experience.
72. A cursory look at the Claimant's Contract of Employment reveals that she was employed in the capacity of a Legal Business Partner. Further, the Respondent has not contested the Claimant's academic and professional qualifications. Further to this, there is no indication or suggestion by the Respondent that the Claimant is trained and possesses the necessary skills, competencies and or experience to serve as a Collections Officer.
73. In addition to the foregoing, there is no indication or suggestion by the Respondent that the Claimant has skills, competencies, or experience that are closely related to those required of a Collections Officer.
74. Therefore, based on the material before Court, there is no indication that the Claimant is sufficiently skilled and competent to serve as a Collections Officer.



75. It is reasonably expected that the Respondent will require the Claimant to deliver on her role as a Collection Officer and meet her performance targets.
76. Indeed, the Claimant has averred that she received an email on 9th June 2025, from the Respondent instructing her to sign off performance targets for the Collections Officer role. To this end, she has annexed a copy of the said email to her Further Affidavit.
77. Accordingly, it is my considered view based on the information and material placed before the Court at this juncture, that it is highly probable that transferring the Claimant from the position of Legal Business Partner to a Collections Officer will significantly impact her job performance and which may result in extreme consequences including but not limited to being cited for poor performance. This is an imminent risk and the attendant consequences may be irreversible. In my view, the ripple effect of transferring the Claimant without any indication of her competencies as a Collections Officer is likely to result in an irreparable injury that cannot be adequately compensated by an award of damages.
78. To this end, the Court finds that the Claimant has established that she will suffer irreparable loss in the event the injunctive orders are not granted. On the other hand, the Respondent will still utilize the services of the Claimant in her capacity as a Legal Business Partner and should the Court untimely find that the Claimant's transfer was fair and within the confines of her Employment Contract and the Employment Act, the Respondent will be at liberty to transfer her as it deems fit and as per its business demands.
79. In light of the foregoing, and all things considered, it is apparent that the balance of convenience tilts in favour of the Claimant.

Orders

80. The total sum of my consideration is that the Claimant's Application dated 27th May 2025 is found to be with merit and the Court makes the following orders:
 - a. Pending the hearing and determination of this Claim, a conservatory order is hereby issued suspending the Respondent's letter dated 17th March 2025, transferring the Claimant from the Legal Department to the Collections Department as a Collections Officer. Accordingly, the Claimant is to continue discharging her duties as a Legal Business Partner in the Legal Department.
 - b. The costs of this application shall be in the cause.
81. Further, in view of the interim orders issued, time shall be of essence and the suit shall be disposed of expeditiously hence the Court directs that: -
 - a. The Respondent shall file and serve its Response, witness statements and list and bundle of documents within 21 days hereof.
 - b. The Claimant shall within 14 days upon service, file and serve any Reply to the Response to the Claim.
 - c. Thereafter, pleadings shall close and parties shall take a suitable hearing date.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27TH DAY OF JUNE 2025.

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STELLA RUTTO



JUDGE

In the presence of:

For the Claimant/Applicant Ms. Atieno instructed by Mr. Achiando

For the Respondent Mr. Kamara instructed by Mr. Chacha Odera

Court Assistant Millicent

Order

In view of the declaration of measures restricting court operations due to the Covid-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

STELLA RUTTO

JUDGE

