



**Public Transport Operators Union v Apollo Tours & Travel Ltd;  
Transport Workers Union Kenya & another (Interested Parties) (Cause  
E882 of 2021) [2025] KEELRC 1906 (KLR) (27 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1906 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E882 OF 2021  
SC RUTTO, J  
JUNE 27, 2025**

**BETWEEN**

**PUBLIC TRANSPORT OPERATORS UNION ..... CLAIMANT**

**AND**

**APOLLO TOURS & TRAVEL LTD ..... RESPONDENT**

**AND**

**TRANSPORT WORKERS UNION KENYA ..... INTERESTED PARTY**

**UNIONISABLE EMPLOYEES OF APOLLO TOURS AND**

**TRAVEL ..... INTERESTED PARTY**

**RULING**

1. Vide a judgment delivered on 30<sup>th</sup> May 2025, this Court found in favour of the Claimant Union, thereby directing the Respondent to deduct and remit to the Claimant's gazetted bank account, trade union dues from its employees who have duly signed check off forms and acknowledged membership to the Claimant's union.
2. The judgment was delivered in the presence of the Respondent's Advocate. It is worth noting that the Claimant Union's Advocate on record and/or their representatives were not present in Court when judgment was delivered.
3. Immediately after the Court read out the judgment, Mr. Mwangi, Advocate for the Respondent, sought to stay the Court's Judgment on the basis that the Respondent had information that the Claimant Union had since been deregistered.
4. Consequently, the Court stayed the Judgment and scheduled the matter for mention on 18<sup>th</sup> June 2025 for further directions based on the assertions by the Respondent.



5. When the matter came up for mention on 18<sup>th</sup> June 2025, Mr. Mwangi reiterated that the Claimant Union had been deregistered by the Registrar of Trade Unions on 25<sup>th</sup> April 2025. To this end, he filed in Court an order of cancellation of the Claimant Union dated 25<sup>th</sup> April 2025, by the Registrar of Trade Unions.
6. Mr. Mwangi further argued that since the Judgment was delivered on 30<sup>th</sup> May 2025, while the order of cancellation was made on 25<sup>th</sup> April 2025, these facts were not in the knowledge of the Court. That had the Court been aware of this fact, it would not have rendered the Judgment as it did.
7. Mr. Munai, appearing for the Claimant Union, argued that the Claimant is still a registered entity, has a bank account and hundreds of workers who have freely elected to associate with the Union. In Mr. Munai's view, the issues raised post-judgment have no nexus with the Judgment. He further argued that the Court is now functus officio. He urged the Court to allow the implementation of the Judgment.
8. The Claimant Union further filed an Affidavit sworn on 16<sup>th</sup> June 2025 by Mr. Fenus Okonji, its Secretary General. Mr Okonji has denied that the Claimant Union is deregistered. According to Mr Okonji, the said assertion is only based on communication from the office of the Registrar of Trade Unions, which in his view, is administrative in nature. Mr. Okonji further deposes that the said communication is now subject to litigation in ELRC Cause No. 448 of 2025.
9. Mr. Okonji further avers that the allegations are politically motivated and have been instituted by the 1<sup>st</sup> Interested Party's authorized representative who is apathetic and uncomfortable with the Claimant Union's polices and lawful operations that appear to resonate with workers in the matatu transport industry.
10. Evidently, the issue concerning the registration status of the Claimant Union is a matter that was not within the knowledge of the Court at the time it pronounced its judgment on 30<sup>th</sup> May 2025. Indeed, this is evidence that has been brought to the Court's attention post-judgment. Ordinarily, this would call for a review of the Court's Judgment under Rule 74(1) (a) aforementioned.
11. Rule 74(1) of the Employment and Labour Relations Court (Procedure) Rules 2024 provides for review of the Court's orders in the following manner:
  - (1) A person who is aggrieved by a decree or an order from which an appeal is allowed but from which no appeal is preferred or from which no appeal is allowed, may within reasonable time, apply for a review of the judgment or ruling—
    - (a) if there is discovery of a new and important matter or evidence which, despite the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made;
    - (b) on account of some mistake or error apparent on the face of the record;
    - (c) if the judgment or ruling requires clarification; or
    - (d) for any other sufficient reason.
12. My construction of the provisions of Rule 74 (1) (a), is that it is up to a party who is aggrieved by a decree or an order of the Court to apply for review if there is discovery of a new and important matter or evidence which, despite the exercise of due diligence, was not within the knowledge of that person or could not be produced by that person at the time when the decree was passed or the order made.



13. In this case, the Court has not been moved appropriately for it to exercise its power of Review under Rule 74(1) of this Court's Rules.
14. Indeed, the only instance where the Court can act suo motu without being moved by the parties is under Rule 75 of the Court's Rules, and is limited to correction of errors.
15. Needless to say, the Court is constrained and cannot issue any orders of review in light of the new evidence without an appropriate application before it.
16. In the circumstances, the parties are at liberty to move the Court as appropriate.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27<sup>TH</sup> DAY OF JUNE 2025.**

.....  
**STELLA RUTTO**

**JUDGE**

In the presence of:

For the Claimant Ms. Khaenda

For the Respondent Mr. Mwangi

For the 1<sup>st</sup> Interested Party No appearance

For the 2<sup>nd</sup> Interested party Mr. Rautta

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 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> 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**

