



Kenya Engineering Workers Union v Masai Cables Limited (Cause E931 of 2024) [2025] KEELRC 1662 (KLR) (5 June 2025) (Ruling)

Neutral citation: [2025] KEELRC 1662 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E931 OF 2024
CN BAARI, J
JUNE 5, 2025**

**BETWEEN
KENYA ENGINEERING WORKERS UNION CLAIMANT
AND
MASAI CABLES LIMITED RESPONDENT**

RULING

1. This ruling relates to the Claimant’s Motion dated 30th October, 2024, brought pursuant to Section 12 of *Employment & Labour Relations Court Act*, 2016, Rule 47 of *Employment & Labour Relations Court Procedure Rules, 2024*, Section 74 of *Labour Relations Act*, 2007 and Articles 41 and 36 of the *Constitution of Kenya*. The Claimant seeks orders that: -
 - i. Spent
 - ii. Spent
 - iii. The Honourable Court be pleased to issue an interim order against the Respondent to immediately start deducting and forwarding union dues to the Applicant Union.
 - iv. The Honourable Court to be pleased to issue interim orders against the Respondent to sign the recognition Agreement between the Respondent and the Applicant/Claimant union
 - v. The Honourable Court to issue interim orders against the Respondent herein to stop forcing the Applicants members to resign from the Claimant Union
 - vi. The costs of this suit to be met by the Respondent.
2. The Motion is supported by grounds on the face thereof and the affidavit of Wycliffe Nyamwata. The crux of the Motion is that the Respondent has failed to comply with Sections 48(1)(2) and 54(1) of *Labour Relations Act* 2007.



3. The Claimant avers that if the orders sought are not granted its members stand to suffer irreparable loss and damage.
4. The Respondent opposed the Motion through a Replying affidavit sworn by James Mutambu on 14th January, 2025. It avers that it is not under any legal obligation to deduct and forward union dues to the Applicant's Union, as the threshold for recognition which requires the Claimant to achieve a simple majority of 50%+1 as provided under Section 54(1) of the [Labour Relations Act](#),2007 has not been satisfied.
5. The Respondent states that the Applicant has failed to demonstrate any mandatory provision or binding Recognition Agreement that obliges the Respondent to comply with the orders sought under Section 48 and 54 of the [Labour Relations Act](#).
6. It is the Respondent's position that the Applicant's claim of violation of Article 36 of the [Constitution](#) on freedom of association is unfounded as it has not interfered with any employee's right to join or participate in a trade union.
7. The Respondent further states that the Applicant has not established any urgency or irreparable loss and damage that would warrant the issuance of the interim orders sought. It avers that any purported loss is speculative, unfounded, and can be compensated by damages if proven.
8. The Respondent states that the orders sought by the Applicant are mandatory in nature, requiring higher standards of proof, which the Applicant has failed to meet.
9. Parties canvassed the motion through written submissions. the submissions have been duly considered.

Determination

10. The issue for determination is whether the Claimant has proved a case for grant of the orders sought at an interim stage.
11. The Claimant seeks interim orders to compel the Respondent to deduct union dues, sign a recognition agreement and to bar it from forcing her employees to leave the union.
12. In the case of [Kenya National Union of Nurses v Nairobi County Government & Another](#) (2017) eKLR, it was held that a court can issue an interim order requiring the employer to continue deducting union dues pending the hearing of the main cause.
13. To grant the orders sought herein, the union must prove a prima facie case, show evidence of violation or refusal by the employer to implement lawful deductions, as well as prove the risk of irreparable harm.
14. The Claimant union has not led any evidence to prove existence of a valid recognition agreement between itself and the Respondent. It is only upon prove of a valid recognition that a union can assert its right to dues from an employer.
15. The Court further notes that the Claimant union has placed before it check-off forms indicating that it had only recruited three members from the employ of the Respondent, while numerous have indicated their intention to leave the union.
16. Further, before this case is heard, the Court cannot tell at an interim stage that the persons who have indicated their intention to leave the union have been coerced to do so by the Respondent, or that the Claimant has recruited a simple majority.
17. Further, the reliefs that the Claimant union seeks herein, are final in nature, and to allow the same at an interim stage, will render the main claim nugatory.



18. In the circumstances, I hold that the Claimant has not proved a prima facie case nor met the legal requirement espoused under the *Labour Relations Act*, 2007 to want grant of the orders sought at this juncture.
19. This motion is devoid of merit. It is dismissed.
20. Costs shall abide the cause.
21. Orders accordingly.

SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 5TH DAY OF JUNE, 2025.

C. N. BAARI

JUDGE

Appearance:

Mr. Araka present for the Claimant/Applicant

Ms. Ngina h/b for Ms. Katasi for the Respondent

Ms. Esther S -C/A

