



**Kenya Engineering Workers Union v M/S Jinseng International Wood Industry Limited;
Kenya Building Construction Timber & Furniture Industries Employees Union (Interested
Party) (Cause E087 of 2024) [2025] KEELRC 1763 (KLR) (5 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1763 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
CAUSE E087 OF 2024
MA ONYANGO, J
JUNE 5, 2025**

BETWEEN

KENYA ENGINEERING WORKERS UNION CLAIMANT

AND

**M/S JINSENG INTERNATIONAL WOOD INDUSTRY
LIMITED RESPONDENT**

AND

**KENYA BUILDING CONSTRUCTION TIMBER & FURNITURE INDUSTRIES
EMPLOYEES UNION INTERESTED PARTY**

RULING

1. Vide an application dated 5th December, 2024 Kenya Building Construction Timber & Furniture Industries Employees Union the Interested Party herein seeks to be enjoined to these proceedings and to be allowed to file pleadings in response to the claim herein.

The application is supported by the grounds on the face thereof and the affidavit of Julius M. Maina, its General Secretary sworn on 5th December, 2024.

2. The grounds in support of the application as set out on the face of the affidavit and reiterated in the affidavit are that:

- a. That the Respondent's core business is in the Timber and wood Industry.
- b. That the Respondent has recognized the Intended interested party and parties have signed a Recognition Agreement.
- c. That parties are in the process of negotiating a Collective Bargaining Agreement



- d. That the workers purported to have been recruited by the Claimant are members of the Intended Interested Party and the Interested Party receives their union dues.
 - e. That the Intended Interested Party will be greatly prejudiced if this cause is heard and determined in the exclusion of the intended Interested Party.
 - f. That the Intended Interested Party is keen to defend its interests in this cause.
 - g. That it will be in the best interest of justice to allow this application.
3. The Claimant filed grounds of opposition to the application by the Interested Party dated 10th December, 2024 together with a Notice to Produce dated 14th December, 2024.
 4. The Respondent filed a replying affidavit in opposition to the application in the main suit dated 14th December, 2024 in which Mr. Yi Lei, a director of the Respondent deposes at paragraph 5 thereof that it has a recognition agreement with the Interested Party and that it has been deducting and paying union dues to the Interested Party.
 5. Pursuant to the notice to produce the Respondent produced work permit for Yu Pei Chao. It stated that the other documents in the notice to produce were in the custody of the Interested Party.
 6. Joinder of parties is provided for in order 1 rule 10(2) of the [Civil Procedure Act](#) as follows:
 - (2) The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.
 7. In its submissions the Interested Party states that its position is that its presence in these proceedings is necessary to enable the court to effectually and completely adjudicate and settle all questions in this suit.
 8. The Interested Party relies on the decision of the Supreme Court in *Communications Commission of Kenya & 3 others v Royal Media Services Limited 7 others* [2014] eKLR where the Supreme Court set out the factors for consideration in a joinder application as follows:

“The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”
 9. The Interested Party further relied on the decision of *Mativo J. (as he then was) in Kenya Medical Laboratory Technicians and Technologists Board 7 6 others v Attorney General & 4 others* [2017] eKLR where the Judge observed as follows:

“The test is not whether the joinder of the person proposed to be added as an interested party would be according to or against the wishes of the petitioner or whether the joinder would involve an investigation into a question not arising on the cause of action averred by the



petitioner. It is whether the intended interested party has an identifiable stake, or a legal interest or duty in the proceedings.”

10. The interested Party submits that it has identifiable stakes in the instant suit and would suffer prejudice in case its application for joinder is not allowed.
11. The Interested Party submits that it is a trade union registered to represent workers in wood and furniture industries among others as demonstrate by an extract of its registered constitution produced as annexure JMM-2 of its application.
12. It further submitted that it conducted recruitment drives in August, September and October, 2024 and recruited 220 members as per check off forms in annexure JMM-2 in its application.
13. The Interested Party further submitted that it signed recognition agreement with the Respondent. It submitted that the Respondent has commenced deduction and remittance of union dues in favour of the Interested Party and that negotiation of collective bargaining agreement has been frustrated by the meddling of the Claimant.
14. The Interested Party further submitted that the Claimant who is also registered as a trade union is by its constitution authorised to operate in the engineering sector as is evident from its name. That its purported recruitment of the Respondents employees who operate in the wood and furniture industry is therefore against the membership clause in its constitution.
15. The Interested Party urged the court to grant its application guided by the decision in *Kenya Union of Water and Sewerage Employees v Tana and Athi Rivers Development Authority: Union of Kenya Civil Servants (Intended Interested Party) (Cause E288 of 2021)* [2022] KEELRC 1379 KLR where this court while considering an application for joinder in circumstances similar to the instant case held that the Intended Interested Party had sufficient interest to be enjoined in the proceedings.
16. The Claimant did not file submissions and if it did, it did not supply this court with a copy. The Respondent stated that it did not oppose the joinder and did not filed any response or submissions in respect to the application for joinder.
17. Having considered the application together with the annexures thereto, the grounds of opposition filed by the Claimant and the submissions filed by the Intended Interested Party, the only issue for determination is whether the Interested Party has demonstrated sufficient interest or stake in this suit to warrant its joinder to the suit.
18. The Claimant did not deny the averment of the Interested Party that it is entitled to represent the employees of the Respondent by virtue of its constitution. The Claimant further did not dispute that the Interested Party has recruited several or rather, a good number of the employees of the Respondent or that the Interested Party has signed and has a valid and subsisting recognition agreement with the Respondent.
19. The Respondent confirmed in the replying affidavit of its director Yi Lei that there is a valid recognition agreement between the Respondent and the Interested Party.
20. For these reasons it is my finding that the Interested Party has demonstrated sufficient stake and interest in this suit to justify its joinder as a party.
21. I thus find merit in the application by the interested party dated 5th December, 2024 and grant the same. Kenya Building Construction Timber & Furniture Industries Employees Union is accordingly hereby enjoined to this suit as Interested Party



22. Costs of the application shall be in the cause.

DATED, SIGNED AND DELIVERED VIRTUALLY ON THIS 5TH DAY OF JUNE 2025

MAUREEN ONYANGO

JUDGE

