



**Khagali v Music Copyright Society of Kenya (Cause E1071 of 2023)  
[2024] KEELRC 138 (KLR) (7 February 2024) (Ruling)**

Neutral citation: [2024] KEELRC 138 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E1071 OF 2023  
J RIKA, J  
FEBRUARY 7, 2024**

**BETWEEN**

**FELIX MUSHUKHANI KHAGALI ..... CLAIMANT**

**AND**

**MUSIC COPYRIGHT SOCIETY OF KENYA ..... RESPONDENT**

**RULING**

1. The Claimant seeks, through his Application dated 20<sup>th</sup> December 2023, orders that: -
  - a. The Application is certified urgent, service be dispensed with, and is heard *ex-parte* in the first instance due to its urgency.
  - b. The Claimant is re-instated in the interim.
  - c. Temporary injunction restraining the Respondent from *inter alia*, terminating the Claimant's contract.
  - d. OCS at the nearest Police Station to assist in the implementation of the orders.
  - e. Any other suitable order.
2. The Application is founded on the Affidavit of the Claimant, sworn on 20<sup>th</sup> December 2023. It is supported also by the Certificate of Urgency signed by the Learned Counsel for the Claimant, Kiptunge Collins, dated 20<sup>th</sup> December 2023.
3. It was placed before the undersigned Judge, on 7<sup>th</sup> February 2024.



**The Court Finds: -**

1. The Application is not urgent. It is dated 20<sup>th</sup> December 2023. The Certificate of Urgency bears the same date. The Application had been placed before the Court over a month later, on 7<sup>th</sup> February 2024. It is not urgent.
2. The Claimant states that he was unfairly dismissed on 30<sup>th</sup> October 2023. He seeks reinstatement in the interim.
3. Reinstatement is ordinarily, a substantive remedy, to be considered on hearing evidence from both Parties. It is not intended to be a provisional measure.
4. Rule 17 [10] of the [E&LRC \[Procedure\] Rules, 2016](#), states that notwithstanding anything contained in Rule 17, the Court shall not grant an ex parte order that reinstates into employment, an Employee whose services have been terminated.
5. The Claimant has not shown through his Affidavit, special circumstances, that would justify consideration of interim reinstatement. He should concentrate on prosecuting his Claim, and in pursuing reinstatement as a substantive remedy.

**It is ordered: -**

- a. The Application filed by the Claimant dated 20<sup>th</sup> December 2023 is not urgent, and has no merit.
- b. It is dismissed with no order on the costs.
- c. The Claimant to prosecute his main Claim.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS 2020, THIS 7<sup>TH</sup> DAY OF FEBRUARY 2024.**

**JAMES RIKA**

**JUDGE**

