



Kenya Plantations and Agricultural Workers Union v Exotic Penina Fields Group (Formerly Carnations Plants) (Employment and Labour Relations Cause 2045 of 2017) [2024] KEELRC 824 (KLR) (18 April 2024) (Ruling)

Neutral citation: [2024] KEELRC 824 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE 2045 OF 2017**

MN NDUMA, J

APRIL 18, 2024

BETWEEN

KENYA PLANTATIONS AND AGRICULTURAL WORKERS UNION CLAIMANT

AND

EXOTIC PENINA FIELDS GROUP (FORMERLY CARNATIONS PLANTS) RESPONDENT

RULING

1. In a notice of motion dated 19/5/2023 the applicant moves the court for orders:-
 1. Spent
 2. That in the alternative, the honourable court be pleased to correct and/or rectify its ruling delivered on 1st day of December 2022 and make a finding to prayer 3 of the applicant's application dated 23rd November 2021.
 3. That the honourable court be pleased to reconsider the pleadings, proceedings and submissions of the parties and make a ruling as can be supported by the record of the court.
 4. That the cost of this suit be provided for.
2. The application is premised on grounds 1 to 6 set out on the notice of motion the summary of which is that the ruling of the court has an error apparent on the face of the record which is sufficient reason for the court to review its ruling and reinstate the order for stay of the proceedings in this suit pending the hearing and determination of the respondent's application seeking to have the National Labour Board revoke and/or terminate the recognition agreement dated 28/10/2013.



3. The application is opposed vide replying affidavit of the claimant/respondent who deposes that the present application is *mala fide*, is incompetent, mis-conceived, bad in law and lacks merit.
4. That there exists a valid recognition agreement between parties dated 28/10/2013 which the respondent/applicant signed upon being ordered to do so by Hon. Justice Rika.
5. That there is no basis for the respondent/applicant to state that the court overlooked prayer 2 in the application dated 23/11/2021.
6. That the application be dismissed with costs.

Determination

7. The court has considered the depositions and submissions filed by the parties. The court has also carefully considered its ruling delivered on 11/2/2023 and is satisfied that the ruling has no error disclosed by the applicant on the face of the record in terms of Rule 33 of the Employment and Labour Relations Court (procedure) Rules 2016.
8. If the applicant was dissatisfied with the finding of the court in the ruling on any matter of law or fact, the applicant should have filed an appeal against the ruling.
9. The court has no jurisdiction to revisit its own finding on law and facts in the said ruling. The court is *functus officio*.
10. The application is misconceived, lacks merit and is an abuse of court process. The same is dismissed with costs.

DATED AT NAIROBI THIS 18TH DAY OF APRIL, 2024

MATHEWS NDERI NDUMA

JUDGE

Appearance:

Mr. Michuki for applicant

Mr. Saye for respondent

Mr. Kemboi, Court Assistant

