



Kaumbi v Tegla Loroupe Peace Fondation & another (Cause E246 of 2021) [2024] KEELRC 1458 (KLR) (14 June 2024) (Ruling)

Neutral citation: [2024] KEELRC 1458 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E246 OF 2021**

**J RIKA, J
JUNE 14, 2024**

BETWEEN

EUNICE HASANGO KAUMBI CLAIMANT

AND

TEGLA LOROUPE PEACE FONDATION 1ST RESPONDENT

MS TEGLA LOROUPE 2ND RESPONDENT

RULING

1. The Claimant filed her Statement of Claim on 22nd March 2021. She states that she was employed by the 1st Respondent as the Chief Executive Officer [CEO].
2. The 2nd Respondent is world-renowned former marathoner, and long-distance runner. The Claimant states that the 2nd Respondent owns the 1st Respondent.
3. The Claimant states that she was unfairly and unlawfully dismissed by the Respondents, on 30th November 2020.
4. She presented the Claim herein, seeking a raft of terminal benefits, compensatory award, and damages.
5. The Respondents filed a Notice of Preliminary Objection dated 24th January 2024. They state that the Claim is incompetent, as no proper 1st Respondent has been sued or named; the 1st Respondent is non-existent; and the 2nd Respondent is wrongfully joined to the Claim.
6. It was agreed by the Parties on 9th February 2024, that the PO is considered and determined, on the strength of the record. They confirmed filing and exchange of submissions at the last appearance on 4th April 2024.



The Court Finds: -

7. The pleadings and documents so far presented before the Court, do not support the PO
8. At paragraph 2 of the Statement of Response, the Respondents both admit the description of the Parties, pleaded in the Statement of Claim, and concede that the Claimant was employed by the 1st Respondent.
9. They also plead at paragraph 3, that the 1st Respondent is a non-profit donor funded organization, while the 2nd Respondent is the 1st Respondent's president.
10. The contract of employment signed by the Parties on 2nd January 2009, was signed between the 1st Respondent and the Claimant. Internal communications issued to Employees, including the Claimant, originated from the 1st Respondent's Management. There is a payroll document, drawn in the name of the 1st Respondent. The Claimant was suspended on 14th August 2020, by the 1st Respondent. A letter to show cause was issued to her by the 1st Respondent. The letter of termination, subject matter of the Claim, dated 3rd December 2020, issued in the name of the 1st Respondent. The Claimant was told that her contract was terminated following a meeting of the 1st Respondent's Board of Trustees.
11. How is it then, that the 1st Respondent does not exist in law, to respond to this Claim? How is the 1st Respondent's president improperly joined to the Claim? If the Respondents had the capacity to employ and terminate employment, how are they later deprived of the capacity to be sued? There is prima facie evidence, to show that the Respondents employed the Claimant, within the meaning of the term 'Employer,' contained in Section 2 of the *Employment Act*, and have been properly sued. The PO has no merit.

IT IS ORDERED: -

- a. The PO is declined.
- b. Costs in the cause.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI, UNDER PRACTICE DIRECTION 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 14TH DAY OF JUNE 2024.

JAMES RIKA
JUDGE

