



**Kenya National Private Security Workers Union v Kenya Kazi Services Limited & another  
(Cause E554 of 2024) [2024] KEELRC 13196 (KLR) (22 November 2024) (Ruling)**

Neutral citation: [2024] KEELRC 13196 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E554 OF 2024  
SC RUTTO, J  
NOVEMBER 22, 2024**

**BETWEEN**  
**KENYA NATIONAL PRIVATE SECURITY WORKERS UNION ..... CLAIMANT**  
**AND**  
**KENYA KAZI SERVICES LIMITED ..... RESPONDENT**  
**AND**  
**MOSES AGUTU OTIENO ..... APPLICANT**

**RULING**

1. Moses Agutu Otieno, the Applicant/Intended Interested Party herein took out a Notice of Motion Application dated 13<sup>th</sup> September 2024, expressed to be brought under Article 48 of *the Constitution*, Section 1A, 1B and 3A of the *Civil Procedure Act*, Order 1 Rule 10, Order 8 Rule 5, and order 51 Rule 1 of the *Civil Procedure Rules*.
2. The Motion which is supported by the grounds appearing on its face and the Affidavit of the Intended Interested Party, Moses Agutu Otieno, seeks the following orders:
  1. Spent
  2. That Moses Agutu Otieno be enjoined herein as an interested party and participate as such in these proceedings.
  3. That the Intended Interested Party be granted leave to put in a response to the Claimant's Application dated 15<sup>th</sup> July 2024.
  4. That costs of this application be in the cause.
3. Grounds in support of the Motion are that the Intended Interested Party is an employee of the Respondent who represents his colleagues in matters socio-economic welfare. That the Orders issued



by this Court on 30<sup>th</sup> July 2024 directly impacts on the Intended Interested Party. That further, from Order 3, the Intended Interested Party is amongst others whose returns register should be produced before this Honourable Court.

4. The Court is urged to enjoin the Intended Interested Party to this suit to avoid the Claimant's sole intention of stealing a match through this suit without granting him an opportunity to be heard as the orders issued herein will greatly and directly affect the Intended Interested Parties' rights in their capacity as the employees of the Respondent.
5. That further, the Respondent's employees only have faith with the Respondent dealing with their socio-economic welfare in totality as opposed to the same being managed by the Claimant.
6. The Claimant responded to the Application through the Replying Affidavit of Isaac G.M Andabwa who has described himself as its General Secretary. Mr. Andabwa deposes that the Intended Interested Party has not met the criteria to be enjoined in the suit. According to Mr. Andabwa, the Intended Interested Party is an intermeddler in a suit that does not require his involvement.
7. He further avers that the Intended Interested Party has no special interest in the prayers sought by the Claimant.
8. That the Intended Interested Party working under the umbrella of the Respondent, has direct involvement with prayers sought by the Claimant, and he should alienate himself in totality.
9. The Respondent did not oppose the Application by the Intended Interested Party.
10. Evidently, the main issue for determination is whether the Application by the Intended Interested Party has merit.
11. In the case of Elizabeth Nyambura Njuguna & another (suing as the Legal representatives of Njuguna Mwaura Mbogo) vs E. K. Banks Limited & 2 others; Edward Kings Onyancha Maina (Interested Party) [2019] eKLR the Court of Appeal in addressing the question of who an interested party in court proceedings held that;

“ An interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause.”
12. In this case, the Intended Interested Party has sought to be enjoined in the matter herein on the basis that he is an employee who represents his colleagues in matters socio-economic welfare. It is his case that the orders of the court directly impact him.
13. Having considered the prayers sought in the suit herein as well as the Application dated 15<sup>th</sup> July 2024, I have no doubt that the decision that may be arrived at by the Court will affect the Intended Interested Party and the employees of the Respondent hence they have a stake in these proceedings.
14. Further, the Claimant has not demonstrated any prejudice to be suffered in the event the Intended Interested Party is enjoined in the suit herein.
15. Accordingly, the Application by the Intended Interested Party is hereby found to be with merit and is allowed. Moses Agutu Otieno is hereby enjoined in these proceedings as an Interested Party.
16. Costs shall be in the cause.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 22<sup>ND</sup> DAY OF NOVEMBER, 2024.**



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**STELLA RUTTO**

**JUDGE**

In the presence of:

Mr. Wati for the Claimant/Respondent

Mr. Makori for the Respondent

Ms. Boiwo for the Intended Interested Party/Applicant Millicent Court Assistant

**ORDER**

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

**STELLA RUTTO**

**JUDGE**

