



**Kenya Union of Commercial Food & Allied Workers v Khetia Garment Limited
(Cause E036 of 2021) [2023] KEELRC 383 (KLR) (3 February 2023) (Ruling)**

Neutral citation: [2023] KEELRC 383 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
CAUSE E036 OF 2021
NJ ABUODHA, J
FEBRUARY 3, 2023**

**BETWEEN
KENYA UNION OF COMMERCIAL FOOD & ALLIED WORKERS CLAIMANT
AND
KHETIA GARMENT LIMITED RESPONDENT**

RULING

1. The present application came before me ex-parte on 29th November, 2022 and I granted prayer (iii) of the Motion. The respondent subsequently filed a Replying affidavit on 21st January, 2022.
2. On 24th January, 2022 I gave directions that the application be disposed of by way of written submissions and that the matter be mentioned on 28th February, 2022 for allocation of ruling date. It is not clear from the record what transpired after 28th February, 2022 because next time the matter came up before me was 14th November, 2022 when I allocated 27th January, 2023 for ruling upon parties filing submissions.
3. From the record it would seem only the respondent filed submissions. The respondent in essence refers to the averments in the application and has contended that the order for payment of Union dues for 22 employees sought in the application is the same prayer in the main claim.
4. The respondent therefore contended that if the order were to be granted at the interlocutory stage, there would be no incentive to prosecute the main claim.
5. The Court has reviewed and considered the application and the main claim and agrees with the respondent's contention above.
6. In the circumstances prayer (iii) of the motion will be confirmed but only to the extent that the respondent will be restrained from victimizing intimidating or coercing the claimant's members because of their union membership. The respondent however retains the right to terminate, dismiss



or discipline the claimant's members in accordance with the Employment Act or the existing CBA between the parties.

7. The parties herein are ordered to prepare and set the suit down for hearing.

8. It is so ordered

DATED AND DELIVERED AT ELDORET THIS 3RD DAY OF FEBRUARY, 2023

ABUODHA NELSON JORUM

JUDGE ELRC

