



Charo & others v Kenya Suitcase Manufacturers Limited (Cause 247-261 of 2016 & 868-887 of 2015 (Consolidated)) [2023] KEELRC 1232 (KLR) (25 May 2023) (Ruling)

Neutral citation: [2023] KEELRC 1232 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
CAUSE 247-261 OF 2016 & 868-887 OF 2015 (CONSOLIDATED)**

M MBARŪ, J

MAY 25, 2023

BETWEEN

HELLEN TABU CHARO & OTHERS CLAIMANT

AND

KENYA SUITCASE MANUFACTURERS LIMITED RESPONDENT

RULING

- 1 Parties attended court on May 2, 2023 and the claimants counsel submitted that there was judgment delivered in ELRC Cause No 247 of 2016 but in these series of files, that judgment does not affect other files and should be heard separately and on the merits.
- 2 The respondent's Counsel submitted that the court heard the files and consolidated all similar claims under Cause No 247 of 2016 is the main file and to proceed under different files and claims will be prejudicial to the respondent. the judgment arising from the main file, Cause No 247 of 2016 should apply in all files in the same series.
- 3 This ruling is to address the above.
- 4 On November 3, 2022 the court directed that ELRC Causes 868 – 887 of 2015 were consolidated for hearing and determination. ELRC Cause No 868 of 2015 has remained the lead file.
- 5 With regard to the series under ELRC No 247 of 2015, on September 8, 2016 the court issued orders and directions consolidating Causes 247 – 260 together with 867 – 887 of 2015 effectively placing all these files under ELRC Cause No 247 of 2016.
- 6 On July 11, 2016 the court directed that all these files as consolidated be heard by one Judge/Court. The series had a total of 20 files + 15 files total being 35 files. All under ELRC No 247 of 2016.



- 7 In this regard, on February 23, 2023 Her Ladyship Hon Agnes Kitiku Nzei delivered judgment under Cause No 247 of 2016 being the lead file under the same series consolidating ELRC No 867 – 887 of 2015 and 247 – 261 of 2016.
- 8 The judgment of the court related to all files as consolidated. This is the import and implication of Section 3 and 20 of the *Employment and Labour Relations Court Act*, 2011 read together with Rule 23 of the *Employment and Labour Relations Court (Procedures) Rules*, 2016 that;
23. The Court may consolidate suits if it appears that in any number of suits—
- (a) some common question of fact or law arises; or
- (b) it is practical and appropriate to proceed with the issues raised in the suits simultaneously
- 9 Having applied these provisions, the files having been consolidated through orders and directions of the court on September 8, 2016 and reiterated on July 11, 2016 and taking into account that judgement has since been delivered and covering all suits as consolidated, to remove a portion of the files for litigation would be re-litigation over a matter(s) addressed by the court with finality.
- 10 The judgment delivered on Her Ladyship Hon Agnes Kitiku Nzei on February 23, 2023 under paragraphs (1) and (2) is clear to the extent that the same related to Cause No 247 of 2016 covering all consolidated files 867-887 of 2015 and 247 – 261 of 2016. To remove some files therefrom would negate the tenets of justice and violate the proper adjudication of disputes.
- 11 Accordingly, judgement under ELRC Cause No 247 of 2016 covers all consolidated files including 867 – 887 of 2015 and 247 – 261 of 2016 and the lead file shall remain ELRC No 247 of 2016.
- 12 A copy of this ruling shall be placed in each individual file for ease of reference.
- 13 Orders accordingly.

DELIVERED IN OPEN COURT AT MOMBASA THIS 25TH DAY OF MAY, 2023.

M. MBARŪ

JUDGE

In the presence of:

Court Assistant: Japhet Muthaine

.....and

