



Wood Plys & Interior Design Workers Union v Corporation Ltd (Cause E247 of 2022) [2022] KEELRC 3965 (KLR) (22 September 2022) (Ruling)

Neutral citation: [2022] KEELRC 3965 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E247 OF 2022
L NDOLO, J
SEPTEMBER 22, 2022**

**BETWEEN
WOOD PLYS & INTERIOR DESIGN WORKERS UNION CLAIMANT
AND
CORPORATION LTD RESPONDENT**

RULING

1. By its notice of motion dated April 21, 2022, the claimant seeks an order directing the respondent to compute, file and serve upon the claimant a payment schedule payable to all the aggrieved members of the claimant.
2. The claimant further seeks an order restraining the respondent from any act of victimisation, including termination of existing appointments and dismissal of the claimant's members on account of this suit.
3. The motion is supported by an affidavit sworn by the claimant's general secretary, Dishon Angoya and is based on the following grounds:
 - a. The respondent has wrongfully and unfairly dismissed Ekure Midong, Charles Kirui and 5 other employees who are members of the claimant, on account of redundancy and has failed, ignored and/or refused to pay final dues as per the law;
 - b. The respondent's action is largely aimed at frustrating the efforts of the claimant in achieving a recognition agreement;
 - c. The right to unionise is secured under article 41 of the *Constitution*;
 - d. The respondent has refused, declined and ignored the findings and recommendations of the appointed conciliator issued on March 28, 2022;



- e. The respondent has ignored, neglected and refused to pay the aggrieved members of the claimant their terminal dues as required under the law.
4. The respondent's response to the claimant's motion is contained in a replying affidavit sworn by the respondent's Legal Officer, Stanley Amule on May 16, 2022.
5. Amule accuses the claimant of misrepresenting facts before the court. He gives details of the circumstances under which the named grievants had left the respondent's employment and terms the termination as lawful and fair.
6. Amule depones that the respondent has not met the legal threshold set under section 54 of the *Labour Relations Act* on recognition of a trade union by an employer. He states that the respondent has been remitting union dues to the claimant, on account of those employees who had voluntarily joined the union.
7. Amule concludes by stating that there is a similar matter being Cause No E056 of 2022, pending before Rika J.
8. In a rejoinder, the claimant's general secretary, Dishon Angoya states that Cause No E056 of 2022 is on non-remittance of union dues while the present cause has to do with reinstatement of union officials.
9. In their pleadings in this application, the parties have taken divergent positions on many issues of fact, which can only be determined pursuant to a full hearing.
10. Moreover, by its motion, the claimant in effect seeks to prosecute the main claim at the interlocutory stage.
11. For the foregoing reasons, the claimant's motion dated April 21, 2022 is declined with costs in the cause.

Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 22ND DAY OF SEPTEMBER 2022

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JUDGE

Appearance:

Mr. Angoya (Union Representative) for the Claimant

Mr. Amule for the Respondent

