



**Evergreen Herbs Ltd v Kenya Plantation & Agricultural Workers Union (Cause E374 of 2022) [2022] KEELRC 13397 (KLR) (17 November 2022) (Ruling)**

Neutral citation: [2022] KEELRC 13397 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E374 OF 2022  
AN MWAURE, J  
NOVEMBER 17, 2022**

**BETWEEN**

**EVERGREEN HERBS LTD ..... CLAIMANT**

**AND**

**KENYA PLANTATION & AGRICULTURAL WORKERS  
UNION ..... RESPONDENT**

**RULING**

1. The applicant filed an application dated June 2, 2021. The orders they are seeking are as follows:
  1. That this matter be certified urgent and be heard *ex-parte* in the first instance.
  2. That a temporary injunction be issued restraining the respondent, its officials, members, agents and/or employee from engaging in, participating and/or continuing with the strike pending the hearing and determination of this application inter partes.
  3. That a prohibitory injunction be issued restraining the respondents, its officials, members, agents and/or employees from engaging in participating and/or continuing with any strike whatsoever pending the hearing and determination of this suit.
  4. That this honourable court do issue orders suspending the strike by the respondents, its officials, members and/or agents herein pending the hearing and determination of this application inter parte.
  5. That costs of this application be provided for.



2. The application is supported by the “supporting affidavit” of Lawrence Tororey who is the Human Resource Manager of the applicant company.
3. The claimant/applicant has made the above prayers dated June 2, 2022 claiming that the respondents have initiated an illegal strike. Considering the time the application was filed and considering further that there are no details when the strike was to commence the court finds giving orders hereto seems to be an exercise in futurity and waste of precious courts time.
4. Even if the respondent had undertaken to put in a response he did not do so and so the court is grouping in darkness concerning the intended strike.
5. The parties are asked to advise the court what the prevailing position is as is unlikely the workers are still on strike from May 2022 to date. Parties are summoned in court on November 29, 2022 to clearly inform the court the position and so give directions to the application filed by the claimant/applicant dated June 2, 2022 or to record a consent if the matter is overtaken by events.

Orders accordingly.

**DELIVERED, DATED AND SIGNED IN NAIROBI THIS 17<sup>TH</sup> NOVEMBER, 2022.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**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.

**ANNA NGIBUINI MWAURE**

**JUDGE**

