



REPUBLIC OF KENYA



KENYA LAW
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**Kenya Engineering Workers Union v Imara Steel Mills Limited (Cause
2063 of 2017) [2022] KEELRC 13211 (KLR) (10 November 2022) (Ruling)**

Neutral citation: [2022] KEELRC 13211 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 2063 OF 2017
AN MWAURE, J
NOVEMBER 10, 2022**

BETWEEN
KENYA ENGINEERING WORKERS UNION CLAIMANT
AND
IMARA STEEL MILLS LIMITED RESPONDENT

RULING

1. The claimant filed an application dated July 4, 2022 and the prayers are as hereunder:
 1. That this honorable court do certify this application grant and service be dispensed with n the first instance.
 2. That upon hearing this application *ex parte* this honourable court be pleased to grant a stay of execution of its orders dated March 8, 2022.
 3. That upon hearing this applications *inter partes*, this honorable court be pleased to direct that compliance with the court order shall be upon provision of a list of the claimant's members to the respondent
 4. That cost be in the cause.
2. The orders the application is premised on were granted on March 8, 2022 and are as follows:-
 - a. The respondent shall sign recognition agreement with the claimant union, within 30 days of this judgment.
 - b. The respondent shall resume deducting and remittance of trade union dues, in four of the claimant union forthwith
 - c. Costs of the claimant.



Applicant/Respondent Facts

3. The applicant/respondent has deponed a supporting affidavit dated June 16, 2022 and one Catherine Wanjiku Ndungu human resource manager of the respondent company has depend hereto.
4. The respondent says in its affidavit that they have been calling for the list as provided in section 48(2) of the Labour Relations Act to no avail. She says without the said list she is unable to comply with the said court orders.

Claimant's Facts

5. The respondent on the other hand has filed a replying affidavit deponed by Wycliffe Nyamwata the general secretary of the claimant. He says that he has maintained a simple majority as per check off system forms submitted to the respondent and enclosed in their memorandum of claim.
6. The respondent states that the applicant used to remit the dues on October 7, 2015 (Kshs 600/-) and another cheque of Kshs 2,600/- being of the union dues. The applicant then stopped remitting the union dues without any consultations.
7. He aver that the applicants are being dishonest and are attempting to mislead the court.

Determination

8. The court finds this is a simple matter and if the parties are diligent and very honest they should have not brought this matter to court. The court will not waste a lot of time writing about the merits and demerits of the application and the respective affidavits sworn by the rival parties. The court orders the claimant to forward the list of the deductions of the members by check off system to the applicant as well as a clear update statement of the members. This should be within 7 days from today's date. The applicant will in return remit the due within 7 days of receipt of that highlighted list.
9. The court will regrettably have to shepherd the parties and so invites them for mention on November 29, 2022 to confirm compliance.

Orders accordingly.

DELIVERED, DATED AND SIGNED IN NAIROBI THIS 10TH 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 15th March 2020 and subsequent directions of 21st 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

