



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**  
**CAUSE NO. 1668 OF 2015**

**CLEMENT NDERITU.....CLAIMANT**

**VERSUS**

**ARM CEMENT LIMITED.....RESPONDENT**

**RULING**

1. Clement Nderitu (Claimant) instituted these legal proceedings against ARM Cement Ltd (Respondent) on 21 September 2015 and he stated the Issue in Dispute as

Unfair and unlawful termination of employment of Clement Nderitu.

2. On 17 August 2018, the Respondent was placed under administration by dint of section 560 of the Insolvency Act.

3. The Respondent thereafter filed a Notice of Preliminary Objection dated 29 June 2020 seeking that the Cause be stood over until compliance with the requirements of section 560 of the Insolvency Act.

4. Pursuant to directions issued by the Court on 30 June 2020, the Respondent filed submissions on the Objection on 24 August 2020 (should have been filed before 3 July 2020) while the Claimant's submissions were not on record by 10 July 2020 as directed.

5. The Court has considered the objection and the submissions.

6. Section 560(1)(d) of the Insolvency Act provides that

A person may begin or continue legal proceedings (including execution and distress) against the company under administration or the company's property only with the consent of the administrator or with the approval of the court.

7. The Claimant did not deny that he had been alerted that the Respondent was placed under administration. He has not demonstrated that he has or had attempted to utilise the aforesaid provision of law which places a restriction in continuing legal proceedings against a company under administration.

8. The Court consequently upholds the Notice of Preliminary Objection and orders

(a) The Cause herein be stayed until further directions are given.

(b) Parties at liberty to apply.

9. Costs in the cause.

**Delivered through Microsoft teams, dated and signed in Nairobi on this 2<sup>nd</sup> day of October 2020.**

**Radido Stephen**

**Judge**

**Appearances**

For Claimant	Kiarie, Kabita, Kihunyu & Associates Advocates
For Respondent	Andrew & Steve Advocates
Court Assistant	Judy Maina