



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA
AT NAIROBI
CAUSE NUMBER 2247 OF 2017

KUDHEIHIA WORKERS.....CLAIMANTS

VERSUS

THE MANAGEMENT OF THE BLESSED VIRGIN MARY

LORETO SISTERS THE EAST AFRICA PROVINCE.....RESPONDENT

RULING

- 1 By a notice of preliminary objection dated 29th March, 2018 the respondent averred that the claim herein is bad in law on the grounds that the respondent as sued is not a body corporate and lacks the legal capacity to be sued or otherwise.
2. The court has reviewed and considered the objection in the context of letters as annexures to the memorandum of claim particularly notice to show cause issued to the grievants and the termination letters which were all issued by the respondent's herein. If it be true as alleged that the respondent's had no legal capacity to sue or be sued and that there was no legal nexus between the respondent and the grievants then one wonders in what capacity the letters were issued.
3. The court is therefore of the view that in the light of the above the matter and legal relationship between the grievants and the respondent cannot be resolved by way of a preliminary objection.
4. The final determination on the objection will therefore be reserved until the matter is fully heard on merit.
5. Respondent to file and serve a response to the claim within 21 days from the date of this ruling. Parties to thereafter list the matter for pretrial direction and hearing at the Registry.
6. It is ordered.

Dated at Nairobi this 18th day of January, 2019

Abuodha Jorum Nelson

Judge

Delivered this 18th day of January, 2019

Abuodha Jorum Nelson

Judge

In the presence of:-

.....for the Claimant and

.....for the Respondent

Abuodha J. N.

Judge