

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NYERI

CAUSE NO. 34 OF 2018

KENYA NATIONAL UNION OF NURSES.....CLAIMANT

VERSUS

MURANG'A COUNTY PUBLIC SERVICE BOARD.....1ST RESPONDENT

MURANG'A COUNTY GOVERNMENT.....2ND RESPONDENT

RULING

1. The Motion by the Claimant is one that seek essentially to amend pleading to introduce what Mr. Okach for the Claimant/Applicant calls dues that were not remitted and which were not included in the payment pursuant to the determination of the Claimant's Motion.

2. The Respondent is opposed and Mr. Kamau submits that the issue is res judicata, as the issue was focal in the contempt application and was part of the compromise of the parties. The Respondents they urge the dismissal of the Motion with costs. They place reliance of the Court of Appeal decision in **John Florence Maritime Services Ltd & Another v Cabinet Secretary for Transport and Infrastructure & 3 Others [2015] eKLR** as well as the case of **George Omondi & Another v National Bank of Kenya & 2 Others [2001] eKLR**.

3. The issue subject of the correct Motion is quite obviously the deduction and remittance of Union dues. That is the core of the suit that was filed, and comprised the main Motion before the Court. The determination of that issue in the cause before me renders it res judicata. Res judicata is later for a then adjudged. So far, this Court is yet to come across a situation where precious Judicial time is to be saved by reviving a suit that is settled, including such a situation and this where there is a determination by Court and a subsequent consent by parties. I cannot reopen this suit in my way as the issues very advanced are res judicata. I have no jurisdiction to do so and I decline the Claimant's application. However, there will be no order as to costs.

It is so ordered.

Dated and delivered at Nyeri this 15th day of March 2019

Nzioki wa Makau

JUDGE

I certify that this is a true copy of the Original

Deputy Registrar