



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**

**CASE NO. 214 OF 2018**

***(Before Hon. Justice Mathews N. Nduma)***

**REV. PATRICK OYONDI.....APPLICANT**

**VERSUS**

**REV PATRICK LIHANDA.....1<sup>ST</sup> RESPONDENT**

**REV. ELISHA KIMAIYO.....2<sup>ND</sup> RESPONDENT**

**REV. ZEDEKIAH ORENA.....3<sup>RD</sup> RESPONDENT**

**RULING**

1. Application dated 13<sup>th</sup> June 2018 sought orders *inter alia* staying the 3<sup>rd</sup> respondent's letter dated 25<sup>th</sup> May 2018 and that the claimant/Applicant remain in office pending hearing and determination of the suit. The Applicant obtained ex parte interim order that are still in place.
2. The Application is based on grounds set out in the Notice of Motion the nub of which is that the respondents are engaged in the removal of the claimant from office as the General Administrator of PAG-K Church for no valid reasons and without following a fair procedure.
3. The impugned letter produced by the Applicant dated 25<sup>th</sup> May 2018, informs the claimant that he was appointed on a seven (7) year fixed contract with effect from 1<sup>st</sup> May 2011 and that the contract ended on 1<sup>st</sup> May 2018. The claimant was directed to handover the office to the General Treasurer to whom he reports immediately since he had not done so by 31<sup>st</sup> May 2018.
4. This application was filed on 13<sup>th</sup> June 2018 past the handing over date. The Applicant had instead written a letter dated 29<sup>th</sup> May 2018 to the General Secretary, PAG-K Rev. Dr. Zedekiah M. Orena informing him that he would not hand over since the contents of the letter dated 25<sup>th</sup> May 2018 have been overtaken by events and that the matter of the employment of the claimant was the subject of PAG (K) Appeals and Arbitration Tribunal Dispute No. 5 of 2018 and the General Secretary PAG-K was a party to that dispute which was due for hearing on 15<sup>th</sup> June 2018.
5. The Applicant relies on another letter dated 28<sup>th</sup> May 2018 written by Rev. Patrick Lihanda, General Superintendent PAG-K to the Secretary PAG-K, Rev. Dr. Zedekiah Orena, in which the superintendent informs the General Secretary that from his position as the head of PAG-K Church and the Chairman of the Executive Committee,  
  
***“The term of office of the General Administrator, Rev. Patrick Oyondi was validly renewed as provided for in the Pentecostal Assemblies of God – K (1998) constitution.***
6. The General Secretary was cautioned to countercheck matters with the office of the superintendent, PAG-K and the chairman of the Executive committee before writing letters such as the one dated 25<sup>th</sup> May 2018 to the claimant.
7. The General superintendent and Head of the Pentecostal Assemblies of God Kenya has also deposed to an affidavit sworn on 9<sup>th</sup> July 2018 and filed on 27<sup>th</sup> January 2018 in which he states that the contract of the claimant/Applicant that was to end in May 2018 had since been renewed by the Executive Committee of P.A.G Kenya Church.
8. The replying affidavit of Rev. Dr. Zedekiah Orena, the General Secretary, contradicts the evidence by his superior the Superintendent and Head of the Pentecostal Assemblies of God Kenya and the Executive committee which under *Article 10 of the Pentecostal Assemblies of God – Kenya, Constitution (1998)* is “*the Supreme Management Committee of the church*”

9. The Applicant in the court's considered view has satisfied the requirements for grant of an injunction pending the hearing and determination of the suit set out in a case of *Giella vs Casman Brown Ltd.*

10. The Claimant/Applicant has made out a *prima facie* case with a probability of success that he still validly holds office as the General Administrator of PAG-K Church upon renewal of his contract by the Executive Committee of the Church.

11. These facts in dispute shall be fully determined upon hearing the suit on the merits.

12. The balance of convenience however is in favour of the Claimant/Applicant remaining in office until the matter is finalized. Costs in the cause.

**Ruling Dated, Signed and delivered this 9<sup>th</sup> day of July, 2019**

**Mathews N. Nduma**

**Judge**

**Appearances**

**Mr. Athung'a for Claimant/Applicant.**

**M/S Omollo for 1<sup>st</sup> Respondent.**

**Mr. Wasilwa for 2<sup>nd</sup> and 3<sup>rd</sup> Respondents.**

**Chrispo – Court Clerk**