

the property now in contention.

8. On 23 October 2015, the Union filed an *Amended Memorandum of Claim*. It introduced properties LR No. Uasin Gishu/Kaptagat/410 and Nandi/Kamobo/4474 owned by Esther Koskei Rono and Ngong/Ngong/54262 owned by Titus Ongeru Matoke into the proceedings.

9. On 1 August 2017, another *Amended Memorandum of Claim* was lodged in Court.

10. The second *Amended Memorandum of Claim* did not introduce the question of the property now in issue in the present application as one of the issues for the Court's determination (there are several motions on record seeking injunctive orders in relation to other properties which are also not listed in the Statement(s) of Claims).

11. Therefore, the order now sought by the Union is in respect of a property not anchored/pleaded in the substantive suit.

12. The order sought is sought in *vacuo*.

13. On that ground, and endorsing and applying the principle stated by Ringera J (as he then was) in *Kihara v Barclays Bank of Kenya Ltd* (2001) 2 EA 420 (CAK) that interlocutory injunctive relief should be anchored in a substantive suit, I find the application incompetent.

14. And if I were wrong on that conclusion, I would still have dismissed the application on the grounds that the Union has not established a *prima facie* case to warrant injunctive relief sought.

15. The ground advanced in support of the application was merely that the sale of the property would preempt the outcome of the pending Cause.

16. There was disclosure that there was a loan facility which was being regularly serviced, but how regular the servicing was (at staff rates if at all) or any legal impediments to the action by the Respondent were not stated.

17. The Union did not even attempt to suggest that the Respondent's action was unlawful or unconscionable so as to bring it within the ambit of unfairness within an employment relationship.

18. On another score, I note that previous attempts by the Union to restrain sell of the other properties which were introduced into the proceedings through the *Amendments* were declined by the Court on 6 May 2016.

19. The Court notes that the Union omitted to make this disclosure but instead chose to disclose only interim orders granted on 25 November 2015 and 17 June 2016.

20. The application dated 29 March 2018 is dismissed with no order as to costs.

21. Because Onyango PJ has substantially dealt with the procedural aspects of this Cause, I direct that the file be mentioned before her for further directions as to the expeditious hearing thereof.

Delivered, dated and signed in Nairobi on this 13th day of April 2018.

Radido Stephen

Judge

Appearances

For Claimant Union

Mr. Odero, National Organising Secretary

For Respondent

Oraro & Co. Advocates (did not appear)

Court Assistant

Lindsey