



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT & LABOUR RELATIONS**  
**COURT OF KENYA AT NYERI**  
**CAUSE NO. 19 OF 2018**

**KENYA UNION OF COMMERCIAL, FOOD &  
ALLIED WORKERS UNION.....CLAIMANT**  
**VERSUS**  
**RUTHAKA FARMERS' CO-OPERATIVE SOCIETY.....RESPONDENT**

**RULING**

1. The Claimant/Applicant seeks the deduction and remittance of union dues from June 2017 to date pending the hearing and determination of the suit. The Claimant/Applicant asserts that the Respondent has declined to remit the union dues the members of the Claimant/Applicant despite deducting the same. The Claimant/Applicant asserts that it recruited 33 employees of the Respondent which is 51% of the employees of the Respondent and therefore is entitled to recognition by the Respondent. The Respondent asserts that there is a recognition agreement between the Respondent and the Kenya Plantation and Agricultural Workers Union and that it cannot be forced to sign a recognition agreement with all the unions that demand recognition. The Respondent asserts that whereas it recognises the right of employees to belong to trade union of their choice, it also had a right to observe the previous recognition agreements and cannot afford to have different agreements with different unions on the same set of employees as this would breed chaos. It was asserted that once the employees signal their suspension of membership from the recognised society, the Respondent would then be in a position to negotiate a new contract. It was asserted that there was material nondisclosure in that there was already another union with rival contention that already has an executed CBA with the society.

2. This is a demarcation dispute that should not have come to court. Under Section 50 of the Labour Relations Act, the law is clear on the deductions that can be effected. I have not been shown any order by the Minister directing the deductions and designating the account to which the Respondent is to deposit the funds the Claimant seeks. The Claimant should have obtained the order from the Minister in order for it to claim the union dues it alleges are due to it. It is apparent there is another union on the ground and because there was a union in place, it matters not that the Claimant feels it is the proper union to be recognized. There is a process to obtain recognition that is set out under Section 54 of the Labour Relations Act which must be adhered to. As the Conciliator failed to initiate the conciliation required under Section 54(6), the reference to the court is void. I reject the memorandum of claim and strike it out with costs to the Respondent.

It is so ordered.

**Dated and delivered at Nyeri this 10<sup>th</sup> day of April 2018**

**Nzioki wa Makau**

**JUDGE**