



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA

AT NAIROBI

CAUSE NO 179 OF 2017

BETWEEN

UNION OF NATIONAL RESEARCH

INSTITUTES STAFF OF KENYA.....CLAIMANT

AND

NATIONAL MUSEUMS OF KENYA.....RESPONDENT

AND

KENYA UNION OF COMMERCIAL, FOOD AND

ALLIED WORKERS.....(INTENDED) INTERESTED PARTY

RULING

1. By a motion dated 31st May, 2017 the KUCFAW moved the court to be joined s interested party in this suit.
2. The application was based on the ground that the proposed interested party was the relevant sector Trade Union in which employees of statutory Boards are eligible to join as members.
3. KUCFAW further contended that it had a formal relationship and had signed several CBA's with the respondent and further that the issue of recognition and deduction of union dues between the respondent and the claimant and another union and the interested party was decided in Cause No. 30(N) of 2009, Cause No. 1366 of 2011, 1126 of 2012, 905 of 2015 and 29 of 2016 involving the same parties.
4. The claimant opposed the application and filed a replying affidavit through its Secretary General Mr Zacharia Achacha in which he deponed among others that notwithstanding the relationship between KUCFAW and the recruited a simple majority of respondents' employees hence KUCFAW's purported interest was insufficient to warrant being enjoined in the suit.
5. To be joined in a suit a party applying to be joined or the court on its own motion must be satisfied that the person to be joined will either assist the court in fully understanding the nature and extent of the dispute and enrich the evidence or that the person to be enjoined will be materially affected by the decision of the court such that it would be unjust not to hear their viewpoint before the decision is made.
6. The dispute between the claimant and the respondent is over recognition and consequent CBA negotiations. The intended interested party on its part states that it has a valid recognition agreement with the respondent and has signed several CBAs with the respondent. It further states that the issue of recognition disputes between itself and the claimant are not new and cited several cases where the claimant and the intended interested party have litigated over the matter and the claimant overruled.
7. The foregoing are serious questions would no doubt assist the court in resolving the dispute. Further, if the court were to find that the respondent should enter into recognition agreement with the claimant, this would obviously affect the proposed interested party. To this extent the intended interested party has ably demonstrated that it has valid and substantial interest in the suit before the court and the court hereby grants prayers 2 and 3 of the application.
8. It is so ordered.

Dated at Nairobi this 21st day of September, 2018

Abuodha J. N.

Judge

Delivered at Nairobi this 21st day of September, 2018

Abuodha J. N.

Judge

In the presence of:-

.....for the Claimant

.....for the Respondent.