



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF
KENYA AT NAIROBI
CAUSE NO 603 OF 2014

WILTER NYANCHAMA STEPHEN.....CLAIMANT

VERSUS

FAMILY TOWN (2002) LIMITED.....1ST RESPONDENT

LORENZO VENTURA.....2ND RESPONDENT

JUDGEMENT

1. By a motion dated 23rd February, 2014 the 2nd respondent sought to be removed from the present proceedings. The application was premised on the grounds that for the purposes of employment contract there was no nexus between the claimant and the 2nd respondent hence the 2nd respondent is not suited in the matter.
2. Further that the 1st respondent was a limited liability company with its own separate personality and the 2nd respondent signed the letter of employment and termination dated 14th October, 2009 and 4th March, 2014 as the 1st respondents authorized agent hence could not incur personal liability. Paragraph 3 of the memorandum of claim states that the 2nd respondent is a male adult working for the 1st respondent. Paragraph 5 further states that the 1st respondent through 2nd respondent unlawfully terminated the contract of the claimant.
3. From the foregoing alone the 2nd respondent is clearly an employee of the 1st respondent and that if at all he terminated the claimant's services, he did so as an agent of the 1st respondent which the claimant himself has conceded.
4. The 1st respondent is a body corporate with its own distinct personality capable of suing and being sued. It is therefore a misjoinder to include the 2nd respondent who the claimant concedes was an employee of the 1st respondent and through whom the 1st respondent terminated his services.
5. The application is therefore found merited and is hereby allowed with the consequence that the 2nd respondent is removed from the suit.
6. It is so ordered.

Dated at Nairobi this 7th day of December, 2018

Abuodha Jorum Nelson

Judge

Delivered this 7th day of December, 2018

Abuodha Jorum Nelson

Judge

In the presence of:-

.....for the Claimant and

.....for the Respondent.