



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO 2102 OF 2016

KENYA SHOE AND LEATHER WORKERS UNION.....CLAIMANT

VERSUS

ZINGO INVESTMENT LIMITED.....1ST RESPONDENT

REDDAMAC LEATHER CENTRE LIMITED.....2ND RESPONDENT

RULING

1. This application is brought by the Claimant by Notice of Motion dated 5th October 2016 seeking the following orders:

- a) An order restraining the Respondent from unlawfully declaring its members redundant
- b) An order reinstating all the thirty three (33) employees declared redundant;
- c) An order directing the Respondent to pay accrued salaries for September 2016 to the employees declared redundant.

2. The application which is supported by the affidavit of the Claimant's General Secretary, Julius Ndombi Maina sworn on 5th October 2016 is based on the following grounds:

- a) That the Respondent has a total workforce of seventy five (75) employees out of which the Claimant has recruited thirty eight (38);
- b) That on 22nd September 2016 the Claimant sent check off forms duly signed by the employees of the Respondent acknowledging their membership with the Union. The Claimant requested the Respondent to deduct and remit union dues in accordance with Section 48(2) of the Labour Relations Act;
- c) That on 22nd September 2016 the Claimant sent a model Recognition Agreement for consideration by the Respondent and asked for a meeting on 30th September 2016;
- d) That upon receiving the aforesaid documents the Respondent decided to declare all the union members redundant.

3. The 1st Respondent's response is contained in a replying affidavit and a supplementary affidavit sworn by its Managing Director, Evangeline Wanjira on 17th October 2016 and 11th November 2016

respectively. Wanjira depones that the 1st Respondent, Zingo Investments Limited is a different legal entity from the 2nd Respondent, REDDAMAC Leather Centre Limited. She adds that the 1st Respondent deals with the preservation of wet slated hides and skins but does not deal with shoe and leather.

4. The 1st Respondent states that it has a workforce of 32 employees but denies receiving any check off forms or model Recognition Agreement from the Claimant. The 1st Respondent maintains that it is wrongly sued in this matter.

5. The 2nd Respondent's response is contained in grounds of opposition dated 21st November 2016 as well as a replying affidavit sworn by its Director, Robert Njoka Muthara on 18th October 2016. He depones that the 2nd Respondent has a total workforce of nine (9) persons and that only two (2) persons named in the documents produced by the Claimant are employees of the 2nd Respondent.

6. I have looked at the pleadings and submissions filed by the parties in this application and have formed the opinion that the issues raised including the question whether the Respondents have been properly sued cannot be determined at the interlocutory stage. I say so because there are many contested issues of fact on which the Court will need to take evidence.

7. I therefore decline to make any orders at this stage and direct the parties to fix the main claim for hearing on priority basis.

8. The costs of this application will be in the cause.

9. Orders accordingly.

DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS 17TH DAY OF MARCH 2017

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JUDGE

Appearance:

Mr. Maina for the Claimant

Mr. Mureithi for the 1st Respondent

Mr. Mwang'ombe for the 2nd Respondent