



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**

**MISCELLANEOUS APPLICATION NO 43 OF 2017**

**KENYA NATIONAL UNION OF NURSES.....APPLICANT**

**VERSUS**

**CABINET SECRETARY, EAST AFRICA COMMUNITY**

**LABOUR AND SOCIAL PROTECTION.....RESPONDENT**

**CENTRAL ORGANIZATION OF TRADE UNIONS.....INTERESTED PARTY**

**RULING**

1. By a Miscellaneous Application dated 15<sup>th</sup> March 2017 the Applicant seeks orders compelling the Respondent to vary Legal Notice No 14611 of 2013 to reflect changes in respect of union dues payable to the Applicant and the Interested Party as well as the Applicant's Bank Account.

2. The application which is supported by the affidavit of Tyson Kinoti Murungi sworn on 15<sup>th</sup> March 2017 is based on the following grounds:

a. That on 10<sup>th</sup> August 2016 the Applicant wrote to the Respondent submitting a schedule of union dues which schedule was gazetted by the Respondent contrary to Section 48 of the Labour Relations Act prompting the Applicant to seek variation of the Gazette Notice;

b. That on 25<sup>th</sup> November 2016, the Applicant wrote to the Respondent demanding that the variation be effected within seven (7) days which letter was not acted upon;

c. That on 8<sup>th</sup> February 2017, the Applicant wrote to the Respondent again requesting for a meeting to resolve the issue of variation but the matter remained unresolved.

I have considered the Applicant's application and noted the following:

a. The Applicant seeks final orders by way of a miscellaneous application, the effect being that there is no valid claim before the Court;

b. In the supporting affidavit sworn by Tyson Kinoti Murungi on 15<sup>th</sup> March 2017, he describes himself as the Applicant's General Secretary while the attached correspondence is signed by Seth Panyako as General Secretary;

There is no evidence that the proposed variation has been sanctioned by the Union Governing Organs and no basis has been laid for the proposed variation.

4. The Applicant's application is therefore dismissed with no order for costs.

5. It is so ordered.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI**

**THIS 28<sup>TH</sup> DAY OF APRIL 2017**

**LINNET NDOLO**

**JUDGE**

Appearance:

Mr. Murungi (Union Representative) for the Claimant

No appearance for the Respondent

No appearance for the Interested Party