



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA**

**AT NAIROBI**

**CAUSE NUMBER 1915 OF 2014**

**KENYA UNION OF ENTERTAINMENT AND**

**MUSIC INDUSTRY EMPLOYEES.....CLAIMANTS/APPLICANT**

**VERSUS**

**SPORTS STADIA MANAGEMENT BOARD.....RESPONDENT**

**RULING**

1. By a motion dated 17<sup>th</sup> November, 2016 the Claimant sought a review of the court's judgment delivered on 27<sup>th</sup> May, 2016. In that judgment, the court observed that the issue of recognition was a preliminary factor which had to be resolved first before the court could consider the issues forming the substance of the dispute before it. The court therefore directed that the issue of recognition be resolved first under Labour Relations Act.

2. I have reviewed the report filed by the conciliator in this matter and noted the respondent herein failed to co-operate in the conciliation process forcing the conciliator to rely on affidavits and supporting documents filed by the respondent in this cause for background information.

3. Further the court has considered submissions by both parties and agrees with the conciliator's observation that the respondent did not validly revoke the recognition agreement between it and the Claimant as required by **section 54(5)** of the Labour Relations Act. The respondent therefore lacked the capacity to enter into another recognition agreement with **KUDHEIHA**.

4. There is however a registered CBA between the respondent and **KUDHEIHA**. The registration was done on 8<sup>th</sup> July, 2015. The court will not disturb this status quo but will order that **KUDHEIHA** does not negotiate a new CBA upon the expiry of the current one. The Claimant unless validly and procedurally replaced shall continue to enjoy recognition for purposes of CBA negotiations with the respondent.

5. In conclusion the court orders as follows:

a. The judgment delivered on 27<sup>th</sup> May, 2016 is hereby reviewed to the extent that the dispute submitted to the court for resolution has been overtaken by events following the registration of a CBA between the respondent and **KUDHEIHA**.

b. The respondent shall continue to recognize the Claimant for purposes of future CBA negotiations

until such time that Claimant shall be validly de-recognised in accordance with Labour Relations Act.

c. The respondent shall remit to the Claimant unpaid union dues and agency fee for the period of 2011 up to September 2015 when CBA with KUDHEIHA was registered.

It is so ordered.

Dated at Nairobi this 23<sup>rd</sup> day of June 2017

**Abuodha J. N.**

**Judge**

Delivered at Nairobi this 23<sup>rd</sup> day of June 2017

**In the presence of:-**

..... for the Claimant

..... for the Respondent

**Abuodha J. N.**

**Judge**