REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAIROBI

CAUSE NO.1776 OF 2014

BANKING, INSURANCE & FINANCE UNION (KENYA) ……..…… CLAIMANT

VERSUS

MAISHA BORA SACCO SOCIETY LIMITED……..….. RESPONDENT

JUDGEMENT

1. The issues in dispute are the refusal to sign Recognition Agreement and refusal to remit Union dues.

2. On the basis of the issues in dispute, both parties filed their written submissions. Such were highlighted on 26th February 2016.

Claim

3. The Claimant is a registered Trade Union registered by the Registrar of Trade unions under the Labour Relations Act and represents unionisable employees in banks, insurance, Sacco, financial institutions which include the Respondent. The Claimant recruited 55 unionisable employees in the employment of the Respondent and served the check-offs to the Respondent to effect the Union dues and sign Recognition Agreement. The Respondent however delayed the signing of the Recognition Agreement in order to alter the terms of employment and to deny the Claimant Union dues. The Respondent also commenced intimidation, harassment of staff threatening them with termination for joining the Union and change of their terms of employment.

4. The claim is also that the Respondent confirmed the recruitment of all unionisable employees. The Claimant achieved the simple majority rule relevant under section 54 of the Labour Relations Act (the Act) and thus upon compliance with section 14, 48 and 52 of the Act, the Respondent was required in law to deduct and remit Union dues to the Claimant. For such non-remittance, the Respondent should pay the dues from its accounts in accordance with section 82 of the Act. The Claimant members have exercised their rights under article 2, 36 and 41 of the Constitution read together with section 4 of the Act. By joining the Claimant Union the Respondent employees have revoked any other membership with any Union and the Respondent should sign the Recognition Agreement and continued refusal is an affront against the Act and contrary to article 36 and 41 of the Constitution which guarantee freedom of association and unionisation.

5. The Claimant has satisfied all conditions precedent for deduction and remittance of Union dues and the signing of Recognition Agreement; there is no rival Union claiming representation and recognition; and the Claimant is the sole and appropriate Union to represent the employees of the Respondent in accordance with their constitutional right.

3. The Claimant is seeking for prayers that;

i. *Unconditional signing of the Recognition Agreement by the respondent;*
ii. *Deduction of Union dues through check-off system and remittance of the same to the claimant;*
iii. *Terms of services should not be changed from permanent to fixed term contracts;*
iv. *The Respondent to pay all Union dues from February 2014 to date from their own account as provided for under section 82 of the Labour Relations Act;*
v. *Costs of the suit; and*
vi. *Any other relief Court deems fit to grant.*

Defence

6. In response, the Respondent admit the description of the Claimant. The Claimant had not recruited 55 unionisable employees of the Respondent as there is no proof. The Respondent cannot therefore have caused any delay with regard to signing of Recognition Agreement or made any attempt to alter employment contract as alleged. There are no Union dues for remittance to the Claimant and there is no evidence of employees being threatened for joining the Claimant union.

7. The defence is that the Respondent nature of business is that of a co-operative society registered under the Co-operative Society Act and the Sacco Societies Act. In order to supplement income the Respondent tenders for cleaning services, housekeeping and auxiliary services to its members' principal employers. The contracts for service concluded between the respondents and its members' principal employers are and have always been strictly on fixed-terms basis. The Respondent recruit workers on fixed-term contracts as its engagement with its members' principal employers is pegged only on the subsistence of the fixed-term contracts. The Respondent recruit workers on fixed-term contracts and long before joining the claimant, some of the Respondent employees were on fixed-term contracts. Such fixed-term contracts expired on 4th October 2014 and following a meeting of the Respondent executive board it was resolved that the contracts would be amended for a fixed-term.

8. On 14th November 2014 one of the Respondent clients, Unilever Kenya Limited, issued notice of termination of contract for provision of cleaning and managerial services by the Respondent taking effect on 31st December 2014. On 31st December 2014 the fixed-term contracts of most of the Respondent employees lapsed and the Respondent did not renew them owing to the cancellation of the contract by Unilever Kenya Limited. A vast number of the Claimant members that are claimed to be its employees are not and therefore there is no recruitment of simply majority of the Respondent unionisable employees and the Claimant has no legal basis to coerce the Respondent to sign a Recognition Agreement.

9. Under section 48(2) and 49(1) of the Act the Minister must issue an order requiring an employer to deduct Trade Union dues from the wages of a unionisable employees and to remit to the Union in accordance with the order. In the absence of such an orders section 54(1) cannot apply and in the absence of the parties having a CBA section 49(1) of the Act cannot apply. The Claimant lacks the basis to claim for Union dues. The actions of the Claimant have caused the Respondent business substantial risk as a going concern due to loss of major contracts.

10. The Respondent is seeking that claim be dismissed or struck out with costs.

Submissions

11. The Claimant filed written submissions on 9th January 2015 and 9th February 2016. The Respondent filed their written submissions on 17th February 2016.

12. The Claimant submit that they recruited 55 unionisable employees of the Respondent comprising 100% of all unionisable employees employed by the Respondent. The entire staff of the Respondent comprise 70 employee noting the Replying Affidavit dated 6th November 2014 and sworn by Samuel Ngure for the Respondent which then forms a 78.6% and which is beyond the simple majority. Despite

the Claimant forwarding ad raft Recognition Agreement to the respondent, doing a reminder and organising a meeting to negotiate ad sign the same, the Respondent has been adamant and refused to sign.

13. The Claimant also submit that in accordance with section 62 and 74 of the Act, they reported a dispute with the minister on 5th June 2014 and a conciliator was appointed and a report was made on 5th August 2014 with recommendations that the Claimant is the most appropriate Union to be recognised by the Respondent but this notwithstanding, the Respondent has not signed the Recognition Agreement. The Respondent then commenced harassment and intimidation of unionisable employee to withdrawn from the Claimant and also threatened them with termination so as to revoke their membership. On 10th October 2014 the Respondent declared some employees and members of the Respondent redundant contrary to Court orders made at the time.

14. The Claimant submit that they have complied with section 14 and 54 of the Act, check off were served upon the Respondent in accordance with section 48(2) and Union dues are due as well as under section 49(1) agency fees is due as this is not based on signing of a CBA. In July 2014 the Respondent decocted Union dues but failed to remit to the Claimant and thus under section 82 of the Act such dues and all those owing are payable from the Respondent own accounts. The Minister has since published the requisite orders and the Respondent has not obliged.

15. The Claimant has relied on the following cases – **Kenya Quarry and mine Workers Union versus Artstone Ltd, Cause No.6 of 1997; Kenya building, construction, Timber, Furniture and Allied Employees Union versus Sat Jointers Ltd, Cause No.80 of 2000; Kenya Hotels and Allied Workers Union versus Nairobi Serena Hotel, Cause no.41 of 2007.**

15. The Respondent on their part submitted that the claim herein is that the Claimant has recruited 55 unionisable employees from the Respondent and should be recognised as check-offs have been served. That the Respondent is delaying Recognition of the Claimant so as to change terms of employment for its members. On 22nd June 2015 the Respondent filed its defence and noted its primary business is that of co-operative and Sacco society. The Respondent due to its nature of business recruits employees on fixed-term contracts as its business related to fixed-terms contracts with its members – co-operatives and Sacco. There is therefore no legal basis for the Claimant to state that they have recruited 55 employee and should be recognised by the respondent.

17. In November 2014 one of the principal clients of the respondent, Unilever Kenya limited, issued notice of termination of the existing contract which prompted the Respondent to issue redundancy notices to affected employees. The Claimant moved the Court to stop the process. The Court directed the Commissioner of Labour to investigate and report to the Court and the report noted that the redundancy was bona fides. The affected employees ceased to be employees of the Respondent and were paid redundancy packages in tandem with section 40 of the Employment Act. The Claimant prevailed upon some employees not to take the redundancy payments resulting in **Cause No.2298 of 2014** between the Claimant and the Respondent.

18. The Respondent also submit that the Claimant has no legal basis to claim Recognition with the Respondent. They have not met the threshold set out under section 54(1) of the Labour Relations Act. The employees the Claimant is seeking to represent have not been established to have been in the employment of the Respondent or that even where they were they formed a simple majority of employees at the time. A conciliator was appointed to establish the facts and the issue of simple majority was resolved by the conciliator who made a finding that the employees were on a fixed-term contract and refused to renew the contracts as the law provides. That the Respondent had always engaged its employees on fixed-term contracts which is lawful as held in the case of **Tom Omondi Ngoko versus Bank of Africa, Cause No.474 of 2013.** The fixed-term contracts between the Respondent and its employees had created a relationship that expired and when the employees refused to renew their contracts, the employment relationship ceased as held in the case of **Kenya Plantation and Agricultural Workers Union versus Keen Kleeners limited, Cause No 163 of 2013 (Mombasa).**

19. The Respondent also submit that they have no legal obligation to collect Union dues on behalf of

the Claimant as set out under section 48 of the Labour Relations Act. The Claimant is required to furnish the Respondent with an orders by the Minister directing the deduction of Union dues from employee salaries and remit as directed as held in the case of **Amalgamated Union of Kenya Metal Workers versus Dathley Industries limited, Cause No 2098 of 2011.** The Respondent was never served with any order of the Minister directing Union deductions from its employees and remittance to the Claimant. The gazette Notice dated 2009 was not served upon the respondent.

20. The claim should be dismissed with costs.

Determination

Whether the Claimant has satisfied conditions for Recognition by the respondent;

Whether Union dues and agency fees are payable;

Whether the fixed-term contracts should be changed to permanent contracts of employment; and

Whether the respondent should pay union dues from their accounts.

21. The right to association is now entrenched in article 36 of the Constitution. Such a right cannot be limited unless the limitation is by law and in accordance with article 24 of the Constitution thus;

> ***24.*** *(1) A right or fundamental freedom in the Bill of Rights shall not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—*
>
> …

22. Article 24 further sets out that any limitation to a right under the Bill of Rights must specifically express the intention to limit that right without derogating from the essential core content of the right thus;

> *[24] (2) Despite clause (1), a provision in legislation limiting a right or fundamental freedom—*
>
> *(a) In the case of a provision enacted or amended on or after the effective date, is not valid unless the legislation specifically expresses the intention to limit that right or fundamental freedom**,** and the nature and extent of the limitation;*

23. In employment and labour relations therefore, the rights granted under article 41 on unionisation read together with article 36 on the right to association are further regulated under the Labour Relations Act to give further meaning, effect and realisation to these rights. The regulation of the right to associate and unionise under the labour Relations act is not a derogation from the constitutional provisions under the Bill of Rights. Such regulations are lawful. The Constitution and various legislations on employment and labour relations there exists negotiated policy documents which the social partners – government, employers and Trade unions – have negotiated to create the Labour Charter.

24. In this case, Recognition of the Claimant is challenged by the Respondent. The basis of that challenge I find to be that the Respondent had employed its workers on fixed-term contracts, such lapsed and the workers refused to renew. As such, the employment relationship has lapsed as with the end of the fixed-term contract, the employment relationship has since ended. The Respondent has also challenged that of the 55 workers who had joined the Claimant union, they did not form a simple majority and as such, a key principle for Recognition does not exist.

25. It is not contested that the Claimant is the right Union to represent employees in the sector operated by the Respondent. Also it is not contested that there is a rival Union seeking Recognition by the

Respondent. The contest is with regard to simple majority as of when and whether such still exists to warrant Recognition of the Claimant by the respondent.

The right to unionisation is articulated under article 41 of the constitution;

> *[41] (2) every worker has the right—*
>
> *(a) …*
>
> *(b) …*
>
> *(c) To form, join or participate in the activities and programmes*
>
> *Of a Trade union;*

26. It is therefore not the nature of employment, the work role or the arrangements the Respondent had with third parties that regulate unionisation. Rather, The right of unionise is secured under article 41 of the Constitution and cannot be taken away under any form of contract of employment or contract for service where the subject employee is unionisable. The right to unionise exist the work arrangements notwithstanding.

27. With the right such secured, 55 employees of the Respondent in exercise of their right under article 41 of the Constitution to join a Trade Union of their choice did join the Claimant union. the regulations pursuant to such employees where they have joined a Trade Union of their choice is to work as a collective and that collective is only given acknowledgement by the employer through Recognition of the Trade Union with the simple majority of all unionisable employees in its employment regulated under section 48 of the Labour Relations Act. In this case, the Claimant being the right Trade Union in the banking, insurance, financial institutions sector and there being no other Trade Union seeking Recognition with the Respondent and as regulated under section 48 of the Act, invited the Respondent for Recognition vide letter dated 4th February 2014 attached as "BF-1A" to the Memorandum of Claim seeking;

> …
>
> *This latest number brings the total in your institution to 50.*
>
> *Do also take not of the provisions of the same section 48 which read in conjunction with gazette notice No.516 dated 13th January 2009 (copy attached) requires you to comply and submit Union dues so collected by latest 10th of every following month. … Union dues are payable direct under advice to the union's Bank Account No. 01-020-741448-00 at Standard Chartered bank of Kenya Ltd, Harambee Avenue Branch, Nairobi.*

28. Therefore with 55 check-offs from 55 employees of the Respondent employment, the processes set out under section 48 of the Act were set in motion vide letter dated 4th February 2014. I take it the Respondent did not comply with regard to letter dated 4th February 2014 from the Claimant as on 25th February 2014 the Claimant wrote a follow up letter to the Respondent. The previous letter noted 50 employees had joined the union. The next letter noted 3 more check-offs, by August 2014 one (1) more employee has joined all being 54. On 3rd April 2014, the Claimant invited the Respondent to sign a Recognition Agreement and shared a draft. By May 2014, the Respondent had not effected Union dues deductions and the Claimant wrote to them in this regard.

29. Had the Claimant then established a simple majority membership of all unionisable employees in the Respondent employment as at February 2014?

30. Reference in the case was made to the Conciliator and the report made. The Conciliator

established that the Claimant had recruited 54 of the 55 unionisable employees of the Respondent. This is 98.2% of all unionisable employees. In the affidavit of Samuel Ngure sworn on 6th November 2014 he avers that the Respondent has more than 70 employees. The actual list of employees is not attached. In the statement of defence/response, despite the claim noting that the subject in dispute is with regard to the Recognition of the claimant, the Respondent does not state the number of unionisable employees in their employment at any given time or the total number of such employees at any given time. I take it then the report of the Conciliator and the matters of fact established by this office is correct. Had this not been the case, the Respondent who filed the statement of response after the attendance before the Conciliator should have contested this aspect vigorously. The conciliator's report is dated 5th August 2014 while the statement of response in defence to the Claimant is dated 27th May 2015 and filed 25 days later on 22nd June 2015.

31. The above analysis and findings are given further credence by virtue of statement issued to Claimant members in the employment of the Respondent and pursuant to the provisions of section 20 of the Employment Act, an itemised statement and or pay slip for July 2014 indicated a deduction of dues to the Claimant. Such I find was in Recognition of section 54 of the Act. Where dues then deducted and not remitted in accordance with section 82 of the Act, these are due and owing from the Respondent own accounts. Equally, as at 4th February 2014 where 50 unionisable employees of the Respondent had joined the Claimant and check-off submitted, such I find was a population forming more than simple majority of all unionisable employees of the Respondent and sufficient to warrant the Claimant recognition.

32. With the Claimant thus having attained simple majority as at 4th February 2014, Recognition by the Respondent was required under section 54 of the Act. With or without such recognition, section 48(2) of the Act applied. Such is not conditional to attaining simple majority. The subject is that upon a registered Trade Union recruiting more than five (5) unionisable employees with any employer, where there exists an order published by the minister, the employer is required to deduct and remit the directed Union dues to the published bank account of the Trade Union thus;

> ***48****.(1) In this Part, "Trade Union dues" means a regular subscription required to be paid to a Trade Union by a member of the Trade Union as a condition of membership.*
>
> *(2) A Trade Union may, in the prescribed form, request the Minister to issue an order directing an employer of more than five employees belonging to the Union to –*
>
> > *(a) Deduct Trade Union dues from the wages of its members; and*
> >
> > *(b) Pay monies so deducted –*
> >
> > > *(I) into a specified account of the Trade union; or*
> > >
> > > *(ii) in specified proportions into specified accounts of a Trade Union and a federation of Trade unions.*

33. Such an Order of the Minister I find was published vide Gazette Notice No.516 and dated 13th January 2009 in the Kenya Gazette of 23rd January 2009. In part the Minister directed as follows;

a. …
b. *Orders every employer who employs not less than five (5) members of Banking, Insurance and Finance Union (Kenya);*

    i. *To deduct every month …*
    ii. *To pay within ten (10) days of the deductions, the total sums deducted … payable to Banking, Insurance and Finance Union (Kenya) into the union's account No. 01-020-741448-00 at the Standard Charted Bank limited, Harambee Avenue Branch …*
    iii.…

iv. *To notify that Trade Union and organisation in writing and within one (1) month of the payment*
v. *To make return returns to the Registrar of Trade unions within one (1) month of making all the payments to that Trade Union and to that organisation.*

34. Such I find to be the gist of the communication made to the Respondent by the Claimant vide letter dated 4th February 2014. Even where such letter did not give all the details therein, the requirement upon the Claimant was to submit the check-offs and where such were over and above five (5), which I find to be the case here, the Respondent under section 48 of the Act was mandated in law to commence Union dues deduction and remittance to the Claimant vide the notice issued by the Minister directed to employers who *employs* any member of the Claimant. Such *employs* is continuous and is only changed upon amendment, revocation or any other act of the Minister suspending such Order for deduction of Trade Union dues and remittance to the Trade union. I find no evidence of any change to the Order that had been brought to the attention of the Respondent as at 4th February 2014.

35. Such directions as set out above are lawful, assessed with regard to the right secured by the employee and member of the Claimant as the right-holder under article 41 of the constitution, regulated under section 54 and 48 of the Act, and as directed by the order of the Minister in accordance with the Labour Charter governing the policy applicable in the tripartite relations noted above.

36. As such upon the Respondent being served with 50 check-offs on 4th February 2014, section 48 (3) applied immediately thus;

> *(3) An employer in respect of whom the Minister has issued an order under subsection (2) shall commence deducting the Trade Union dues from an employee's wages within thirty days of the Trade Union serving a notice in the prescribed form signed by the employees in respect of whom the employer is required to make a deduction.*

37. However, the agency fees due to a Trade Union such as the Claimant is only due under section 49(1) where there exists a collective Agreement with the employer such as the Respondent. In this case, such a process had not commenced and no CBA had been registered with the Court during the period subject to this litigation. No agency fee is therefore due to the claimant.

38. Any dues deducted in accordance with section 48 are subject to remittance to the Trade Union within 10 days under section 50 of the Act;

> ***50****. (1) Any amount deducted in accordance with the provisions of this Part shall be paid into the designated Trade union, or employers' organization account within ten days of the deduction being made.*

39. Such deduction and the remittance is also directed by the Minister vide gazette Notice No.516 of 2009. I find no lacuna with regard to where the deducted Union dues should have been remitted. The rationale here I find it under section 50(8) of the Act thus;

> *(8) No employer shall –*
>
> *(i) fail to comply with an order or a notice issued under this Part;*
>
> *(ii) deduct any money and not pay it into the Account designated in the notice issued by the Minister; or*
>
> *(iii) pay money into an account other than the account designated in the notice issued by the Minister.*

40. Such is set out in mandatory terms. Contravention of section 50 of the Act is a criminal offence. Such should attract a sanction.

Conclusion and Remedies

41. On this basis, I find as at **4th February 2014**, the Claimant had met the requisite threshold for the grant of Recognition by the Respondent. A Recognition Agreement was due in accordance with the applicable law – the Labour Relations Act.

42. I also find that as at 4th February 2014, Union dues should have been deducted and remitted to the Claimant in accordance with section 48(3) of the Act noting the order of the Minister vide Gazette Notice 516 of 2009 and published on 23rd January 2009.

43. Where the Respondent deducted Union due in July 2014 and failed to remit to the Claimant and or make confirmation to the Claimant of such deduction of Union dues with regard to the members or make the required returns with the Registrar of Trade Unions as directed by the Order of the Minister and in accordance with section 50 of the Act, such is in violation of the law and the sanction is set out under section 82 of the Act where a penalty of kshs.10, 000.00 is due. However, to foster peaceful industrial relations between the parties herein and noting the finding that Recognition of the Claimant is due, I take it that the parties will commence a harmonious working relationship that foresters fair labour relations between the unionisable employees and the Respondent. However, the proceedings herein would have been avoided had the Respondent not remained adamant, failed to respond to letters from the claimant, deducted Union dues in July 2014 and failed to remit and when a draft Recognition Agreement was forwarded to them they refused and or ignored to sign and as such costs are due to the claimant.

44. Where Union dues are required to be deducted and remitted to a Trade Union of federation of Trade unions, where such dues are not deducted and remitted as legally due, or the employer has deducted and failed to remit to the subject Trade union, the employer shall pay such dues from its own accounts and remit in accordance with the Order published by the Minister. Such uncollected dues from the unionised employees cannot be received from the employee as the employer is at fault and there is evidence of being served with check-offs of more than 5 employees members of the Claimant Union. Such is the sanctity of the law and constitutional with regard to giving effect to the right to associate and unionise under article 36 and 41.

45. In this case, the Respondent testified that there were fixed-term contracts with the Claimant members. Such contracts lapsed and were not renewed and the employment relationship terminated. While the employment relationship thus subsisted, the nature of contracts notwithstanding and noting the above analysis, the unionisable employees of the Respondent and pursuant to the check-offs forms submitted by the Claimant to the respondent, such employees became unionised and the Respondent should have deducted Union dues commencing in March 2014 at Kshs. 250.00 and kshs.100.00 to the Claimant and COTU respectively.

46. On whether the fixed-term contracts should be changed to permanent contracts of employment, a fixed-term contract of employment is recognised in law as a valid contract. Where the parties to a fixed-term contract have agreed to be bound by such a contract of employment, the employment relationship automatically expires by effluxion of time as held in the case of **Chacha Mwita versus KEMRI, Cause No.1901 of 2013;**

> *… fixed term employment contract is, for example, entered into for a period of six months with a contractual stipulation that the contract will automatically terminate on the expiry date, the fixed term employment contract will naturally terminate on such expiry date, and the termination thereof will not (necessarily) constitute a dismissal, as the termination thereof has not been occasioned by an act of the employer. In other words, the proximate cause of the termination of employment is not an act by the employer. There is a definite start and a definite end. Thus, the contract terminates automatically when the termination date arrives; otherwise, it is no longer a fixed term contract.*

47. The above findings are reiterated by the court in the case of **Rajab Barasa & Others versus Kenya Meat Commission, Cause No.2262 of 2015.** Indeed this court respects written terms and

conditions of work that an employer and an employee have agreed to be bound while in an employment relationship. Such can only be faulted where there is evidence that such an employment agreement/contract was entered into in violation of clear legal provisions, it was by duress, coercion or through fraud. I find no such evidence of illegality in this case to challenge the fixed-terms contracts that the Claimant members had with the Respondent.

48. In any event, the claimant had not concluded any collective agreement with regard to its members in the employment of the respondent on their terms and conditions of employment where terms as to the nature of contracts to its members would have been addressed. The claimant members who remained under individual fixed-term contracts of employment were bound by its terms until such was renewed or changed by mutual agreement/consent.

49. The Court has since stopped proceedings in Cause No. 2298 of 2014 pending determination herein with regard to whether the Claimant enjoyed Recognition with the Respondent at the time of filing such suit. This being in the positive and the finding that indeed the Claimant had attained the requisite threshold for Recognition by the Respondent as at 4th February 2014, the question therein is whether the claimants were rightly terminated under redundancy. What is relevant herein is the determination that the Claimant had rightly commenced the proceedings on the basis that legally they had the right to represent their members as the appropriate Union at the time. With the question of recognition herein resolved, Cause No.2298 of 2014 should take its cause on merit.

50. For the proceedings herein and noting the above, where the Claimant members were terminated by the Respondent on divers dates, that was never gone into. However, while each Claimant member continued in the employment of the Respondent and until such was terminated by effluxion of time under the fixed-term contract or under a redundancy notice, such can be determined outside these proceeding. Such does not affect the right(s) secured herein. From 4th February 2014 and up and until each Claimant member in the employment of the Respondent remained in such employment, Union dues are payable in the sums noted above at **paragraph 45** of this judgement.

I enter judgement for the Claimant against the Respondent as I am satisfied the Trade Union [claimant] as at 4th February 2014 fulfilled the requirements under section 48 of the Labour Relations Act for Recognition and further order as follows;

a. **The Respondent shall sign a Recognition Agreement with the Claimant within seven (7) days of the judgement;**
b. **Where the Respondent fails to comply as (a) above, the Registrar of the Court shall sign such Recognition Agreement for and on behalf of the respondent;**

c. **Union dues set out under <u>paragraphs 45 and 50</u> above shall be payable from the Respondent own account(s) for the due periods and covering 4th February 2014 up and until each Claimant member in their employment ceased employment with the respondent;**

d. **Noting (c) above, the Respondent shall in 7 days submit to the Court a full list of all unionisable employees covered in the submitted check-offs stating date of employment and date of termination; this shall form the basis for computation by the Claimant of dues owing which shall be submitted for the Court assessment and confirmation in the next fourteen (14) days;**

e. **Where the Respondent fail to comply as (d) above, upon the lapse of 7 days from the date hereof, the Claimant shall submit within 14 days the dues owing and not paid by the Respondent in Union dues for their members in the employment of the Respondent from 4th February 2014 <u>this date inclusive</u> and (c) above notwithstanding;**

f. **Interest is hereby due to amounts owing at (d) or (e) above;**

g. **Costs of the suit.**

Orders accordingly.

DELIVERED IN OPEN COURT AT NAIROBI THIS 21ST DAY OF MARCH 2016.

M. MBARU

JUDGE.

In the presence of;

Court Assistant: Lilian Njenga

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