



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
JUDICIAL REVIEW NO. 14 OF 2016
(FORMERLY MISC. APPL. NO. 318 OF 2016)

REPUBLIC APPLICANT

VERSUS

THE REGISTRAR, THE NURSING COUNCIL OF KENYA

(EDNA C. TALLAM-KIMAIYO)1ST RESPONDENT

THE NURSING COUNCIL OF KENYA 2ND RESPONDENT

CABINET SECRETARY MINISTRY OF HEALTH 3RD RESPONDENT

THE HONOURABLE ATTORNEY GENERAL 4TH RESPONDENT

KENYA TRADE NETWORK AGENCY (KENTRADE)5TH RESPONDENT

EX-PARTE

UNION OF KENYA CIVIL SERVANTS

AND

EVANS NASEBE INTERESTED PARTY

RULING

1. The judicial review application was filed at the High Court on 22nd July 2016 and was subsequently transferred to this court on the same date.
2. On 22nd August 2006 a consent entered into by the Exparte- applicant and the 1st and 2nd respondents was filed. In terms of the consent, *“the entire suit/matter be marked as withdrawn and fully settled” interalia.*
3. Subsequently, by a notice of application dated 20th September 2016 and filed on 20th September 2016, one Evans Nasebe seeks to be joined as an interested party.

4. The application is opposed by all the other parties on the basis that the suit was compromised by the consent filed on 22nd August 2016.
5. The basis of the application is that the applicant/intended interested party is a person directly affected by the relief sought and the applicant wishes to be heard before the proposed consent is adopted by the court.
6. It is the court's considered view that the consent filed by the Exparte-applicant and the respondents in this case has compromised the suit. The court also is of the considered view that the applicant may institute his own suit if he intends to litigate on matters that affect him *vis a vis* any of the parties in the withdrawn suit.
7. The court adopts the consent filed by the parties to this suit as an order of the court.
8. There is no prejudice that may be suffered by the applicant by reason of termination of the suit the applicant was not party to prior to its withdrawal.
9. It would be unfair and not in the interest of justice to force parties who have mutually resolved their differences and withdrawn their suit to continue litigating solely on the basis that a third party wishes to join their already withdrawn suit.
10. The application is dismissed with no order as to costs.

Dated and delivered at Nairobi this 2nd day of December 2016

MATHEWS NDERI NDUMA

PRINCIPAL JUDGE