



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT OF KENYA

AT MOMBASA

CAUSE NO. 60 OF 2014

BETWEEN

ATHUMANI LALI CLAIMANT

VERSUS

NYALI INTERNATIONAL BEACH HOTEL RESPONDENT

Rika J.

Court Assistant – Mr. Kombe

Mr. Nyamai instructed by Nyamai & Associates for the Claimant

Mr. Otieno Advocate instructed by Omondi Waweru & Company Advocates for the Respondent

RULING

The Court made a ruling on 15th December 2014. It was ordered that the Claim herein is filed by an unqualified person, therefore incompetent, and struck out with costs to the Respondent.

The firm of Nyamai and Associates, filed an Application dated 4th February 2015 seeking to review and set aside the ruling of 15th December 2014.

Upon reading the said application, and upon hearing the submissions made by Mr. Otieno by way of a Preliminary Objection, and the response by Mr. Nyamai, the Court is persuaded and finds:-

1. There are no new matters of fact, and no change in the Law from 15th December 2014, warranting the Court to revisit its ruling.
2. The question of representation is a fundamental issue of law, and is properly raised by Mr. Otieno as a Preliminary Objection.
3. This Court could have misapprehended the Law, but that is not a ground to warrant revisiting of the ruling. If the Claimant or his representative are persuaded the Court misapprehended the law,

the proper recourse is for them to appeal the ruling in the Court of Appeal, rather than force their way back to this Court.

4. Mr. Nyamai and Mr. Athumani Lali should therefore pursue their appellate, rather than review option. If the Court of Appeal finds Mr. Nyamai can legally represent Mr. Lali, we shall grant Mr. Nyamai such audience. For now, and regrettably the orders of the Court dated 15th December 2014 must stand. The Preliminary Objection is upheld, and application dated 4th February 2015 dismissed, with costs to the Respondent.

Dated and Delivered at Mombasa this 23rd day of February 2015.

James Rika

Judge