



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU

CAUSE NO. 57 OF 2015

BENSON MATI NJIRU..... CLAIMANT

v

KENYA YOUNG MEN'S CHRISTIAN ASSOCIATION.....RESPONDENT

RULING

1. Benson Mati Njiru (applicant) commenced legal proceedings against Kenya Young Men's Christian Association (Respondent) on 24 February 2015 alleging unfair termination and seeking Kshs 1,532,005/- in total.
2. Together with the Memorandum of Claim, he filed a motion under certificate of urgency
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 2. THAT this Honourable Court be pleased to allow the claimant to access the office and residential house to get personal effects.
 3. THAT an inventory be taken in the presence of the claimant and the Respondent to enable a smooth hand over.
 4. THAT the applicant be allowed one month access to the office to enable him collect debts outstanding from customers. 5. THAT the Respondent be ordered to calculate the terminal dues of the claimant and file tabulation in court.
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3. The Court certified the motion urgent on 24 February 2015, and directed that it be served for *inter partes* hearing on 26 February 2015.
4. On 26 February 2015, the Respondent sought time to file a response to the application. In the interim, the Court, in the presence of both parties' counsels granted prayers 2 and 3 of the motion except the Court denied the applicant access to the office.
5. The Court directed the Respondent to file its papers before 6 March 2015, and fixed 10 March 2015 for *inter partes* hearing. The motion was taken on the said date.
6. Mr. Muthanwa for the applicant stated that despite the Court orders of 26 February 2015, the Respondent had denied the applicant access to collect his personal effects and to have an inventory taken when he went to the premises on both 5 March 2015 and 8 March 2015.

7. Mr. Kamau for the Respondent on his part expressed surprise that the Respondent had denied the applicant access to collect his personal effects.

8. The applicant was provided with housing accommodation during his employment by the Respondent. It is only natural that he had personal effects in the residential quarters. After the determination of the employment, he had no legal right to continue staying in the residence, but he has all the legal right and as well a constitutional right to such personal effects in the house.

9. The Court will therefore confirm the orders given on 26 February 2015, and direct the Respondent to forthwith allow the applicant to collect his personal effects and an inventory be taken.

10. The applicant had also sought an order to be allowed to access the office for one month to enable him collect debts outstanding from customers.

11. The applicant's relationship with the Respondent was determined whether illegally or fairly or not, and he has no legal right to purport to continue to perform any functions or duties on behalf of the Respondent.

12. The Court cannot grant such a prayer as it has no basis known to law. The debtors list if there is any should be part of the smooth handover the applicant should be making.

13. In this regard, the Court directs the applicant to handover any list of debtors or debts he knows of to the Respondent.

14. The last substantive prayer made by the applicant has no foundation. In the Memorandum of Claim he has pleaded in detail the terminal dues he is seeking.

15. The Court will therefore confirm prayers 2 and 3 of the motion as modified on 26 February 2015, and dismiss prayers 4 and 5 of the motion.

16. Costs in the cause.

Delivered, dated and signed in Nakuru on this 20th day of March 2015.

Radido Stephen

Judge

Appearances

For applicant Mr. Muthanwa instructed by Muthanwa & Co. Advocates

For Respondent Mr. Kamau instructed by Aming'a Opiyo Masese & Co. Advocates