



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

CAUSE NO. 513(N) OF 2009

NATIONAL UNION OF WATER &

SEWERAGE EMPLOYEESCLAIMANT

VERSUS

REGISTRAR OF TRADE UNIONSRESPONDENT

AND

JAMES MUTHEE NDIRANGU1ST INTERESTED PARTY

SIMON MAINA WANJIKU2ND INTERESTED PARTY

PAUL KIPKOECH KOECH3RD INTERESTED PARTY

ELIJAH OTIENO OWACH 4TH INTERESTED PARTY

DANIEL O. RAKORO (t/a Rakoro & Company Advocates ...5TH INTERESTED PARTY

RULING

1. On 30th April, 2013, a consent order was recorded by the court.
2. The consent was signed for and on behalf of the Interested Parties by Ochieng Omolo & Company Advocates, for the Claimant/Applicant; by Rakoro & Company Advocates and by Mr. William Langat, the Registrar of Trade Unions, the Respondent.
3. The effect of the consent order was to conclude all the issues in dispute in Cause No. 513(N) of 2009 and have the file closed. The consent superseded all previous orders and same were set aside.
4. On 17th February, 2014, about one year later, the 12 named Applicants, moved an Application for Review of the aforesaid consent order dated 14th February, 2014. The Application was drawn and filed by Michael Owuor & Company Advocates for the named Applicants. The

Applicants are not parties to the suit and no leave was sought to have them joined in the suit to give them Locus Standi to have a consent order by the parties set aside.

5. The Memorandum for Review brought under Section 16 of the Industrial Court Act, 2011 and Rule 32 of the Industrial Court (Procedure) Rules, 2010 is supported by an Affidavit of one Philemon Otieno Atik.

6. The said Affidavit lacks material averments in that,

- a. the connection of the deponent to the case is not disclosed
- b. the authority to bring the Application on behalf of 12 other Applicants is not annexed
- c. there are no material averments in the Affidavit on the reasons why the consent order should be set aside.
- d. not a single ground in terms of Rule 32 of the Industrial Court (Procedure) Rules 2010, to warrant review of the consent order is disclosed on the face of the Application and in the Supporting Affidavit.

7. In the Grounds of Opposition filed on 2nd February, 2015 by M/s Beatrice Akuno, State Counsel, she states that, the Applicants have failed to demonstrate that the consent was irregularly drawn and signed.

8. That the Application is frivolous, vexatious and an abuse of the court process.

9. Similarly, the Claimant's response to the Application for Review filed on 2nd February, 2015, reiterates that Applicants have not disclosed their interest in the matter and are indeed vexatious litigants who should be punished by an award of costs.

10. Upon a careful perusal of papers filed on record, the court is satisfied that the Application for Review lacks merit at all.

11. The court upholds the aforesaid submissions by the Respondents and dismisses the Application with costs.

Dated and Delivered at Nairobi this 17th day of April, 2015.

MATHEWS N. NDUMA

PRINCIPAL JUDGE