

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI

CAUSE NO. 141 OF 2014

**KENYA UNION OF COMMERCIAL, FOOD AND ALLIED
WORKERS..... CLAIMANT**

VERSUS

**NEW MURARANDIA FARMERS CO-OPERATIVE SOCIETY
LIMITED..... RESPONDENT**

(Before Hon. Justice Byram Ongaya on Thursday 15th October, 2015)

JUDGMENT

The claimant filed the memorandum of claim on 29.10.2014. The claimant prayed for the court to order for implementation of the collective bargaining agreements for the period 2010/2012 and 2012/2014 as agreed and registered in court.

The respondent filed the defence on 01.12.2014 through Gitonga Muriuki & Company Advocates. The respondent prayed for the dismissal of the claimant's claim with costs and the matter is referred back for fresh negotiation, if any.

The court has considered the material on record and the following facts are not in dispute:

- a. The court in Cause No. 328 of 2012 at Nairobi ordered the parties to conclude collective agreements and the parties concluded the agreements for 2010/2012 and 2012/2014 in accordance with the court order. The agreements were signed on 2.01.2014.
- b. The parties registered in court the two agreements as was concluded. The agreements were registered in court on 11.02.2014 as per the certificate of registration.
- c. Prior to conclusion of the two agreements the parties were in a recognition agreement and a collective agreement registered in court for 2008/ 2009.

The **1st issue** for determination is whether the two collective agreements were signed by the respondent's officials who in fact were not validly in office as submitted for the respondent. In High Court Miscellaneous Application No. 1 of 2014 the court, Ngaah J, found on 30.05.2014 that if there was an issue on the respondent's proper office bearers, that dispute had to be resolved before the appropriate forum. As far as the proceedings before this court are concerned, the court finds that at all material time the two collective agreements were registered in court and there was no dispute before the court about the respondent's valid officials as at the time the agreements were registered. The court further finds that at registration of the agreements, that issue was never raised and the two collective agreements were duly registered. In such circumstances and in absence of evidence to the contrary, the court finds that the two collective agreements were concluded by the respondent and properly so.

The **2nd issue** for determination is whether the claimant is entitled to the prayers as made. Section 59 (5) of the Labour Relations Act, 2007 provides that a collective agreement becomes enforceable and shall be implemented upon registration by the court and shall be effective from the date agreed upon by the parties. In view of the valid registration, the court finds that the claimant is entitled to enforcement of the two collective agreements as prayed for.

In conclusion, judgment is entered for the claimant against the respondent for:

1. The respondent to implement the collective bargaining agreements for the period 2010/2012 and 2012/2014 as agreed between the parties and registered in court.
2. The respondent to pay the claimant's costs of the suit.

Signed, dated and delivered in court at **Nyeri** this **Thursday, 15th October, 2015**.

BYRAM ONGAYA

JUDGE