



**REPUBLIC OF KENYA**

**IN THE INDUSTRIAL COURT OF KENYA**

**AT NAIROBI**

**CAUSE NO. 2437 OF 2012**

**KENYA GAME HUNTING AND SAFARI WORKERS UNION ..... CLAIMANT**

**VERSUS**

**MICATO SAFARIS ..... RESPONDENT**

Mr. Mburugu for Respondent/Applicant

Mr. Ndolo for Claimant/Respondent

**RULING**

1. The Respondent /Applicant has noted an Appeal against the judgment of this Court delivered on 20<sup>th</sup> day of November 2013 by a Notice of Appeal dated 28<sup>th</sup> November 2013 and lodged on 29<sup>th</sup> November 2013.

2. The Court in its judgment directed the Respondent to commence collective bargaining negotiations with the Claimant Union within 30 days from the date of the judgment and to deduct union dues from all the unionsable employees from whom it was deducting agency fee and remitting to the union.

3. The issue for determination is whether the failure to grant the orders for stay will render the intended Appeal nugatory and/or the Respondent is likely to suffer irreparable harm if the judgment is implemented pending the hearing of the Appeal.

The nature of this judgment is such that it directs deduction of union membership fees in respect of employees who are known members of the Claimant Union.

4. The Court is unable to see what prejudice the Respondent will suffer if it continues to convey the membership dues on behalf of its employees to the Claimant Union.

5. Furthermore, prior to the stoppage of the recognition Agreement, the Respondent has concluded many CBAs with the Claimant Union and will proceed to conclude one more CBA as they have done in the past.

In the event, the Appeal is successful, the parties will simply stop to negotiate further CBAs until the recognition agreement is revived.

6. The balance of convenience is heavily in favour of allowing the membership fees to be deducted and negotiations to better the terms of the workers are proceeded with pending the Appeal.

7. Accordingly, the Application dated 20<sup>th</sup> February 2014 and filed on 21<sup>st</sup> February 2014 is dismissed with costs to the Claimant Union.

**Dated and Delivered at Nairobi this 9<sup>th</sup> day of April, 2014.**

**MATHEWS N. NDUMA**

**PRINCIPAL JUDGE**