



**REPUBLIC OF KENYA**

**IN THE INDUSTRIAL COURT OF KENYA**

**AT NAIROBI**

**CAUSE NO. 1814 OF 2013**

**RIFT VALLEY RAILWAYS WORKERS' UNION (K) ..... CLAIMANT**

**VERSUS**

**RAILWAYS AND ALLIED WORKERS' UNION ..... RESPONDENT**

Mr. Isaac Opondo Munayi for Claimant/Applicant

Mr. Kaburu for Respondent

**RULING**

1. The Claimant Union filed a Memorandum of claim dated 11<sup>th</sup> November 2013 seeking the following orders;
  1. that the Honourable Court order that the tenants of Rahu House continue depositing the respective rent amounts in the Claimant Union's Account as instructed of them by the Claimant Union or;
  2. that the Honourable Court orders that the tenants henceforth begin to deposit the rent amount to the court until this matter is heard and determined;
  3. that the Honourable Court issue a declaratory order stopping any official of the Respondent Union to transact any business as pertains the Asset in question until the matter is heard and determined;
  4. that the Accounts of the Respondent Union be frozen and an Independent Audit be carried out to ascertain the utilization of the funds from the workers asset whether same accords with the position as brought out in the Respondent's constitution and as envisaged in the statute;
  5. that a declaratory order that the Respondent has abdicated its core mandate and responsibility of protecting and articulating the interest of the members.
2. It should be noted from the out set that the parties are rival unions with competing interests with respect to the employees in the Railway Sector. The Respondent is the older of the union whereas the Claimant Union was registered on 21<sup>st</sup> December 2012.
3. The Claimant Union has no recognition agreement with the Rift Valley Railways, the employer and there is a pending dispute regarding the matter in Industrial Cause Nos. 116 and 241 of 2013 as consolidated.
4. The Claimant Union has simultaneously with the memorandum of claim filed an interlocutory

application seeking interim orders to wit;

“c that the tenants continue to remit their rent from the workers property in the Workers Union Account as notified there in the respective notices issued to them or, be deposited in Court with effect from immediately, pending the determination of that suit.”

5. In terms of **Section 12(1)(d)** of the Industrial Court Act , this Court has jurisdiction to hear and determine disputes between Trade Unions.

6.The Claimant Union has not established a *prima facie* right on the facts of this case thus far to entitle it obtain the interim orders sought.

7. On the authority of **Giela V. Casman Brown** this application has failed the necessary threshold of establishing a *prima facie* case with a possibility of success and the Court needs not get to other pre-conditions of granting an interim injunction.

This issue ought to have been raised in **Cause No. 116 and 241 of 2013** now consolidated.

8. It is the Court’s considered view that filing of multiplicity of suits by the Claimant Union amounts to abuse of the process of the Court and is inimical to economic use of the Court’s time.

The Court therefore dismisses this application and further orders that the main suit herein remains in abeyance pending the hearing and determination of the recognition dispute filed by the Claimant Union in suit No. 116 and 241 of 2013.

Costs in the cause.

**Dated and Delivered at Nairobi this 11<sup>th</sup> day of July, 2014.**

**MATHEWS N. NDUMA**

**PRINCIPAL JUDGE**