



REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NAIROBI
CAUSE NUMBER 732 (N) OF 2010

BETWEEN

FRANCIS NDICHU KAHIGA
..... 1ST CLAIMANT

SAMUEL MAINA
MWANIKI.....2ND
CLAIMANT

ISAIAH NJOROGE
MUGO.....3RD
CLAIMANT

(On their behalf and on behalf of 1458 employees of Mbo-I-Kamiti
Farmers Co.

Ltd)

VERSUS

MBO-I-KAMITI FARMERS CO. LTD.....
.....RESPONDENT

AND

JOSPHAT MUGO KAMAU

MURIITHI KAMAU MUINI

CHARLES
MWANGI.....INTERESTED
PARTIES/APPLICANTS

Rika J

CC. Mr. Kidemi

Mr. Josphat Mugo Kamau in person

Muriithi Muini in person

RULING

1. Three persons Josphat Mugo Kamau, Muriithi Kamau Muini and Charles Mwangi, describing themselves as '**Interested Parties**', filed an application dated 24th September 2013, seeking the following orders:-

- a. **The Interested Parties be allowed to substitute the Claimants in this matter.**
- b. **Leave be granted for the applicants to act in person.**
- c. **Costs be in the Cause.**

2. Josphat Mugo Kamau swore an affidavit on 25th September 2012, explaining the basis upon which the application is brought. They claim that Francis Ndichu Kahiga, Samuel Maina Mwaniki and Isaiah Njoroge Mugo, who were at the initiation of the Claim authorized by 1458 Claimants to prosecute the Claim, have been compromised by the Respondent, and no longer have the Applicants' interest at heart. They now claim the 1458 Claimants wish to authorize Josphat Mugo Kamau, Muriithi Kamau Muini and Charles Mwangi to replace Kahiga, Mwaniki and Mugo. They would also wish to act in person as their Advocate has been compromised by the Respondent.

3. The Court finds the Application dated 24th September 2013 unacceptable. There is no claim pending before this Court, a Consent Award having been registered between the Claimants and the Respondent, and money paid out in settlement pursuant to the Consent. The Applicants were part of the Claimants who authorized the persons they wish to replace. They are not Interested Parties. There is no pending suit that would justify replacement or withdrawal of Advocates.

4. The Court made a ruling on 12th April 2013, marking the Claim as settled, and file closed. Curiously, there is a purported consent between the Applicants and the persons they seek to replace, filed in this Court on 12th November 2013, which the Applicants have said nothing about. That consent sought to allow the application of 24th September 2013, and appears to be signed by the persons who are sought to be replaced, but is unsigned by the Applicants. There is mischief in the application of 24th September 2013.

5. It would be futile to issue orders of leave to the Applicants to act in person in a concluded matter. They seem to have issues with payment of decretal sum by their Advocates. That is not an issue that calls for revisiting of the proceedings by replacement of authorized Claimants and withdrawal of Advocates. If the Applicants have any grievances against their Advocates, the proper forum would be to seek the intervention of the Law Society of Kenya or the Advocates Complaints Commission, not seek to re-open a file the Court has declared shut. IT IS HEREBY ORDERED:-

1. **The Application dated 24th September 2013 is rejected.**
2. **Applicants may pursue the claim against their Advocate at the appropriate forum.**

Dated and delivered at Nairobi this 17th day of December 2013

James Rika

Judge