



REPUBLIC OF KENYA

Industrial Court of Kenya

Cause 1986 of 2011

JAMES ONKOBA TONGI..... 1ST
CLAIMANT/APPLICANT

MICHAEL OWINO.....2ND
CLAIMANT/APPLICANT

STEPHEN P. AMOYAH..... 3RD
CLAIMANT/APPLICANT

NELSON ONYANGO OTHOO 4TH
CLAIMANT/APPLICANT

VS

ROBERT ODWORI ABWOGA1ST
RESPONDENT

KENYA SHIPPING, CLEARING AND WAREHOUSES WORKERS UNION2ND
RESPONDENT

REGISTRAR OF TRADE UNIONS 3RD
RESPONDENT

RULING

The application before court is the one dated 22nd November, 2011. It is brought under Section 4, 30, 31, 34, 35, and 36 of the Labour Relations Act, 2007, Sections 12 of the Industrial Court Act, 2011, Rule 16, and 27 of the Industrial Court (Procedure) Rules 2010, Article 41 of the Constitution of Kenya and all

enabling provisions of the Law) by the Applicants here in James Onkoba Tongi, Michael Owino, Stephen P. Amoyah and Nelson Onyango Othoo against the Respondents Robert Odwori Abwoga, Kenya Shipping, Clearing and Warehouses Workers Union and the Registrar Trade Unions. They seek orders:

1. THAT this Honorable court be pleased to certify this application as extremely urgent, service be dispensed with and it be heard *ex parte* in the first instance.
2. THAT there be a temporary injunction restraining the Registrar of Trade Unions from causing changes in the Register of officials of the Kenya Shipping, Clearing and Warehouses Workers Union, pending the hearing and determination of this application and claim.
3. THAT the operationalisation of the extract issued by the Registrar of Trade Unions on 29th August, 2011 regarding changes of the officials of the Kenya Shipping, Clearing and Warehouses Workers Union, be stayed and the officials listed in the said extract be restrained from holding office, acting as officials and discharging their functions as officials of the union, pending the hearing and determination of this application and claim.
4. THAT the status of the National officials of the Kenya Shipping, Clearing and Warehouses Workers Union prior to the changes made between 15th May, 2011 and 23rd August, 2011 be reverted to and maintained as shown by the extract issued on 15th February, 2010, pending the hearing and determination of this application.
5. THAT there be declaration that the purported removals and changes made by the Respondents in the register of officials of the union between 15th May, 2011 and 23rd August, 2011 and exhibited by the extract issued on 29th August, 2011 are unlawful and against the union's constitution and thus null and void *ab initio* and should be nullified and/or quashed.
6. THAT this honorable court be pleased to enlarge time within which the decision of the Registrar registering the purported changes of officials of this union made between 15th May 2011 and 23rd August, 2011 and as exhibited by the extract issued on 29th August, 2011 may be challenged and this application and claim be deemed to have been made within the stipulated time.
7. THAT the costs of this application be provided for.

When the Respondents were served, they did not put any replies before this court. I however note that there are other cases concerning the parties herein pending before this court.

These are cause No.

1471/2011
1438/2011
1986/2011

The subject matter of these three (3) causes are inter related and all relate to disputes concerning the officials of the Kenya Shipping, Clearing and Warehouses Workers Union.

Cause No. 1471/2011 is pending for a ruling. In this case the applicants who are similar to those in court sought orders that purported national elections of the Union held between 15th May, 2011 and 23rd August, 2011 were a sham, unlawful and against the Union Constitution and thus null and void and the same should be nullified and/or quashed.

Cause No. 1438/2011, is due for mention on 19th November 2012. The applicants are still contesting over union dues collected by officials they allege are a sham. As the two causes are pending in court, the applicants have now filed this Cause No. 1986/2011 where the issue of the same union election is in issue.

The Respondents herein never filed replies of this application. The applicants want an order restraining the Registrar, Trade Unions from making changes in Register of officials of Kenya Shipping, Clearing and Warehouses Workers Union pending the hearing of this case among other orders.

I notice the duplicity of cases and applications filed before this court by the same applicants, clogging the court process. I believe this is an abuse of the court process. I will therefore not give any orders in relation to this application but order that all the three (3) causes be placed before the Principal Judge on 19th November, 2012 for consolidation and further directions.

Dated, signed and delivered this 22nd day of October 2012 before Court Clerk Rachel Gichuki, James Tongi for the Claimants no appearance for the Respondents.

HELLEN WASILWA

JUDGE