**THE REPUBLIC OF UGANDA**

**IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA**

**MISC. APPL. NO. 94 OF 2019**

**[ARISING FROM LDR. NO. 123/2018]**

**BETWEEN**

**WAFANA NELSON & OTHERS ………………...……...….…..APPLICANTS**

**VERSUS**

**UGANDA MEDICAL WORKERS UNION ……...…………..RESPONDENT**

**BEFORE**

1. Hon. Chief Judge Ruhinda Asaph Ntengye
2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha

**PANELISTS**

1. Ms. Adrine Namara
2. Ms. Susan Nabirye
3. Mr. Michael Matovu

**RULING**

This is an application by charge summons was filed by the Uganda Medical Workers Union seeking an order that one Hon. Sam Lyomoki be joined in LDR No. 123/2019.

However this application was headed as “**Wafana Nelson & Others….Applicants Vs Uganda Medical Workers Union ….Respondent** which was technically irregular.

Be that as it may an affidavit sworn by one Sanya Aggrey Bosco is to the effect that during the relevant period Hon. Sam Lyomoki was Secretary General and accounting officer of the union and that as such he is equipped with relevant information.

An affidavit in reply sworn in by one Bukenya Neimah is to the effect that the application ought to have been addressed to Dr. Lyomoki as a third party notice and that a respondents could only sue the person he or she felt aggrieved him or her.

We have perused both the application and the affidavit in support. We have also perused the affidavit in reply. We think that this is a strange application which seeks to ask orders from this court compelling a claimant to sue a person other than the one he/she believes aggrieved him/her.

The claimant (now respondent) believed that the respondent (now the applicant) terminated him unlawfully and filed a claim against it but the respondent is saying that the claimant should be directed to file a claim against another party, Dr. Sam Lyomoki because they believe he has more information relating to employment of the claimant. We agree with counsel for the respondent that the right procedure should have been for the applicant to file **3rd party proceedings under o1r14 CPR** where the applicant would bring Dr. Lyomoki into the proceedings as a co-respondent. Otherwise, Dr. Lyomoki can be called as a witness in the original labor claim 123/2018. Accordingly the application is incompetent and it is dismissed. No order as to costs is made.

**BEFORE**

1. Hon. Chief Judge Ruhinda Asaph Ntengye …………….
2. Hon. Lady Justice Linda Lillian Tumusiime Mugisha …………….

**PANELISTS**

1. Ms. Adrine Namara …………..
2. Ms. Susan Nabirye …………..
3. Mr. Michael Matovu …………..

Dated: 13/03/2020