



THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
LABOUR DISPUTE REFERENCE NO. 328 OF 2017
(Arising from LABOUR DISPUTE KCCA/CEN/KWP/075/2017)

OKELLO NYMLORD:.....CLAIMANT

VERSUS

HARRIS INTERNATIONAL LTD..... RESPONDENT

BEFORE:

The Hon. Mr. Justice Anthony Wabwire Musana,

PANELISTS:

1. Hon. Adrine Namara,
2. Hon. Susan Nabirye &
3. Hon. Michael Matovu

RULING

Introduction

- [1] When this matter came up for scheduling on the 16th of September 2022, Ms. Sarah Namwanje, appearing for the Respondent, informed the Court that 48 of the Claimants' documents were disputed. We directed Counsel to file written arguments. Counsel for the Respondent contended that the documents sought to be adduced by the Claimant did not refer to him, were not authored or addressed to him, are operational documents and correspondence of the Respondent and not connected to the Claimant, do not touch or relate to the issues before the Court and are neither in their original or certified form. Counsel

premised the objection on three broad grounds: authenticity, materiality, competence, and identification. It was submitted that these principles were enshrined in Sections 2(1), 6,7, 61, and 63 of the Evidence Act Cap.6 Counsel buttressed the arguments on the case of **Kaggwa Michael v Olal Mark & Others** H.C.C.A No. 10 of 2017.

- [2] Mr. Jonan Nuwandinda Rwambuka, appearing for the Claimant, submitted that the authenticity of the documents was not in dispute and that they, in their original form, were in possession of the Respondent. It was Counsel's view that the issue of materiality and competence could only be handled at the hearing. On the matter of identification, Counsel submitted that the documents are operational documents of the Respondent. He contended that circumstances surrounding termination are not addressed in a single document. Counsel relied on Section 71(5) EA for this proposition and concluded that under **Section 18 of the Labour Disputes (Arbitration and Settlement of Disputes) Act 2006**, the Industrial Court is not bound by the rules of evidence in civil proceedings.

Decisions and Orders of the Court

- [3] **Section 18 of the Labour Disputes (Arbitration and Settlement) Act, 2006 (from now the "LADASA")**, provides that the Industrial Court is not bound by the strict rules of evidence in civil proceedings. This Court has observed that there is to be a degree of flexibility in the admission of evidence in the labour disputes environment. In the cases of **Moro Charles v Greenhill Secondary School**,¹ and **Collin Lukiiko v China Railway No.3 Engineering Group Co Uganda Ltd**,² we observed that the legislature intended to provide for a less formal and a less legalistic approach to labour justice and reception of evidence. In the Lukiiko case, we noted that the Industrial Court would be entitled to receive evidence submitted before it and determine its relevance, materiality, and weight after the hearing. There is sound jurisprudence to support this conclusion.³ The relevance, authenticity, and materiality can be determined after the evidence has been subjected to and tested during cross-examination. Indeed, the LADASA as amended provides for the Court, *suo moto*, to require the production of any evidence from any person or the attendance of any person. In the circumstances, any other conclusions and observations on relevance of the contested

¹ LDR 10 of 2021

² LDR 52 of 2020

³ See **Kiryia Robert v Uganda Criminal Appeal No. 50 of 2016** Per Senoga Anglin J. in an appeal where documents were marked for identification were the basis for a conviction, her Lordship, overturning the appeal, ruled that identification documents did not carry evidential value.

documents would be premature. For these reasons, we would admit all the contested documents as identification documents subject to formal proof.

- [4] In the final analysis, the contested documents shall be admitted as identification documents and marked CID 1 to CID 48. We hasten to add that by admitting the same as identification documents, they do not stand proven. They are not exhibits.⁴

It is ordered this 2nd day of June 2023.

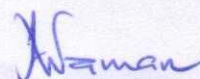
DELIVERED & SIGNED BY:

Anthony Wabwire Musana,
Judge, Industrial Court



THE PANELISTS AGREE:

1. Hon. Adrine Namara,
2. Hon. Susan Nabirye &
3. Hon. Michael Matovu.



Delivered in open Court in the presence of:

For the Claimant: Mr. Jonan Rwambuka Nuwandinda

For the Respondent: Absent.

Court Clerk: Mr. Samuel Mukiza.

⁴ See Kirya Robert v Uganda (Ibid)