



THE REPUBLIC OF UGANDA

IN THE INDUSTRIAL COURT OF UGANDA

MISCELLANEOUS APPLICATION NO. 150 OF 2021

(ARISING FROM LDR NO. 198 OF 2021)

(ARISING FROM KCCA/CEN/LC/053/2012)

1. EWICHU ALFRED

2. NDYABAHIKA GEOFREY

3. TIGAWALANA ROBERT

4. KISEKWA RONALD APPLICANTS

VERSUS

UGANDA CHRISTIAN UNIVERSITY RESPONDENT

BEFORE:

HON. LADY JUDGE LINDA LILLIAN TUMUSIIME MUGISHA

PANELLIST

1. MS. JULIAN NYACHWO

2. MR. KATENDE PATRICK

MR. BWIRE JOHN ABRAHAM

RULING

20 This application was brought by Chamber Summons (Exparte), under the Order 1
Rule 8 and 22 of the Civil Procedure (Amendment) Rules 2019 and S.12 (5) of
The Labour Disputes (Arbitration and Settlement) (Amendment) Act 2020, for
orders that:-

1. Leave for a Representative order be granted to the Applicants to represent 46 other
25 persons in their intended Labour Dispute against the Respondent.
2. Costs of the Application abide the main dispute.

The grounds of the Application are set out in the affidavit of **NYABAHIKA GEOFREY**
and are summarised as follows:

1. That the Applicants together with 46 other persons were employees of the
30 Respondent as security guards.
2. That they were all terminated and they all have a similar dispute they intend to file
against the Respondent .
3. That the 46 former employees have authorised the Applicants to bring the dispute on
their behalf in a representative capacity.
- 35 4. That court should be pleased to grant the Applicants permission to file the intended
Labour Dispute in the interest of saving time and for quick disposal of the matter.

SUBMISSIONS:

When the matter came for hearing on 22/11/2023, Ngwize Tito was for the Applicant and
40 Patience Namusoke for the Respondents. Mr. Ngwize informed Court that he had filed
written submissions and prayed for a date for ruling.

It was his submission that, the 4 Applicants were seeking leave of court to be granted a
representative order in accordance with Order 1 Rule 8 of the Civil Procedure Rules as
amended, to represent 46 other persons in their intended Labour Dispute against the

45 Respondent. According to him all the Applicants together with 46 other Claimants were former employees of the Respondent, working as Security Guards.

Although he miss addressed Court, he further submitted that the 46 other Claimants authorized the Applicants by letter attached on the record annexure A2, to represent them in their intended Dispute against the Respondent. He also attached the draft
50 memorandum of Claim which shows that all the 50 intended Claimants have the same interest against the Respondent, and the same claims.

He prayed that, court grants the Applicant's a representative order to enable them prosecute the Claim.

DECISION OF COURT

55 Order 1 rule 8(1) provides that; one or more persons may with the permission of Court sue or defend on behalf of other persons having the same interest in one suit. In particular Order 1 rule 8 as (Amended) provides as follows:

(1) *A person may institute a representative suit on behalf of all plaintiffs or all defendants, as the case may be, who have the same actual and existing interest in the
60 subject matter of the intended suit, for the benefit of all.*

(2) *An application for a representative order shall be made by an intending plaintiff or defendant who intends to represent all plaintiffs or all defendants for the benefit of all as the case may be, who have the same actual and existing interest in the subject matter of the intended suit.*

65 (3) *Before the court grants an order for a representative suit, the applicant shall satisfy the court that—*

(a) *all the plaintiffs or defendants, as the case may be, have an actual and existing interest in the subject matter of the intended suit;*



70 (b) all the persons represented have authorized the applicant to sue or defend in the suit, and the authorization shall be in writing duly signed by the represented persons; and

(c) the application is brought with a proposed plaint or defense, as the case may be, showing—

(i) a list of all persons so represented; and

75 (ii) that all persons so represented have the same actual and existing interest in the suit.

(4) Subject to sub rule (2), the court shall, in such case, give notice of the institution of the suit to all such persons either by personal service or, where, from the number of persons or any other cause, such service is not reasonably practicable, by
80 public advertisement, as the court may in each case direct.

(5) Any person with the same interest wishing to be made a party to a representative suit may apply to the court to be made a party to the suit.

(6) For purposes of this rule, “a representative action” means a suit in which there are numerous persons having the same interest in one suit and where one or more
85 of such persons, may, with the permission of the court, sue or be sued or may defend in the suit on behalf of or for the benefit of all persons interested.”

This rule requires that the parties must have the same interest. They must obtain permission from court to bring a representative suit and they must give notice of the institution of the suit by the court to all such persons on whose behalf or for whose
90 benefit the suit is brought. Sub rule 4 of Order 1 provides that the notice may be by either personal service or by public advertisement where there are numerous numbers of persons involved.

We have perused the application which discloses a copy of a letter indicating that the 46 other persons intending to be Claimants in a Labour Dispute against the Respondent. The letter discloses their names and signatures and indicates that they have the same interest in the intended dispute. Therefore they qualify to be issued with a representative order.

However, the Order 1 rule 8 makes it mandatory for the intending parties to be given notice of the intended suit. That notice is to inform all persons on whose behalf or for whose benefit the dispute is intended to be instituted to be included in the suit as a means of avoiding a multiplicity of individual cases on the same issues. As stated in Mulla on Code of Civil Procedure cited by Mubiru J in **Odama & 5 Others vs the Registered trustees of Arua Dioceses Misc. Appln. No 0017/2017** that:

"The courts where called upon to deal with an application under Order 1 rule 8 should bear in mind that the provisions contained therein are mandatory and not merely directory and are essential preconditions for trial of the case as a representative suit. They must see that they direct that the notice should be by public advertisement, the notice must disclose the nature of the suit as well as the reliefs claimed therein, in order to enable the persons interested to get themselves impleaded as parties to the suit, either to support the case or to defend against it. Further, the notice must mention the names of the persons who have been permitted to represent them, so that the persons interested may have an opportunity of knowing who has been selected to represent them."

In the circumstances since the order is worded in mandatory terms that notice must be given to all persons on whose behalf or for whose benefit the suit is intended to be instituted, the Applicants in this case are directed to give notice of the institution of the intended Labour Dispute to each of the 46 other persons for whose benefit and on whose behalf the suit is intended to be instituted, by either by personal Service or where



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personal service is not reasonably practical by public advertisement in a newspaper. As stated by in **Odama & 5 others** (supra), the notice must comply with the following:

- 120 1. *It must clearly disclose the nature of the suit as well as the reliefs intended to be claimed therein as far as possible drawing upon the pleadings and leaving no room for adornment or explanations.*
2. *It must mention the names of the persons who intend to file the representative suit together with the particulars of the advocate representing them.*
- 125 3. *It must contain information that the persons interested may apply to be made a party in the suit and should prescribe time which the persons interested should apply.*
4. *It must declare that it has been issued pursuant to the order of this court citing the date of its issuance.*

130 The application is therefore granted in the above terms with no order as to costs.

delivered and signed by:

HON. LADY JUDGE LINDA LILLIAN TUMUSIIME MUGISHA 

PANELLISTS

1. **MS. JULIAN YACHWO**
- 135 2. **MR. KATENDE PATRICK**
3. **MR. BWIRE JOHN ABRAHAM**

DATE: 12/12/2023

