

**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.NYABAHIKA GEOFREY**

**2.ORIONGAN JOSEPHINE ADEP** .....**APPLICANTS**

**VERSUS**

**THE REGISTERED TRUSTEES**

**OF CHURCH OF UGANDA** .....**RESPONDENT**

**BEFORE:**

**1. HON. LADY JUDGE LINDA LILLIAN TUMUSIIME MUGISHA**

**PANELLIST**

**1. MS. HARRIET NGANZI MUGAMBWA**

**2.MS. EBYAU FELIX**

**3. FX MUBUKE**

**RULING**

This application was brought by Chamber Summons (Exparte), under the Order 1 Rule 8 and 22 Civil Procedure (Amendment) Rules 2019, 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 9 (nine) other persons in their intended to 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 GEOFFREY** and are summarised as follows:

1. That the Applicants together with 9 other persons were employees of the Respondent at All Saints Cathedral in Kampala.
2. That they were all unlawfully terminated and they all have intentions to file a labour dispute against the Respondent vide Labour dispute Reference No. 198 of 2021 .
3. That they all have the same interest in the Labour dispute Reference No. 198 of 2021 against the Respondent as per attached list of Claimants which is attached on and marked Annexure **CI**
4. That all the interested parties had a meeting together and the applicants were chosen to file a labour dispute for the benefit of all the other persons interested as indicated in Annexure **CI** above.
5. That, the Labour Dispute seeks from this Court relief for unfair termination, terminal benefits, Repatriation, send-off package, redundancy pay, leave allowance, gratuity, overtime pay and accrued allowances among others.
6. That court should be pleased to grant the Applicants permission to file the intended labour dispute the by granting them Representative Order.

## SUBMISSIONS

When the matter came for hearing on 21/02/2022, Niwandinda Joram Rwambuka was for the Applicants. He prayed to submit orally which we granted. It was his submission that, this was an *ex parte* Application brought under Order 1 Rule 8 of the Civil Procedure Rules as amended and it was supported by Affidavit sworn by Ndyabahika one of the Applicants in the same intended dispute. According to him all the other nine Claimants authorized the Applicants as seen in annexure CI, an agreement authorising the 1<sup>st</sup> and 2<sup>nd</sup> Applicant to represent them in the Labour Dispute against the Respondent. Counsel also attached the draft memorandum of Claim which shows that the 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. He submitted further that, although Order 1, Rule 8 (4) as amended, provides that, before Court grants such an Order, it shall in such cases *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 public advertisement, as the court may in each case direct* but given that, the intended Claimants were in Court, and they signed consenting to the Applicants representing them, Court should dispense with this requirement to file notice in newspaper and grant a representative order as prayed for.

## DECISION OF COURT

***Order 1 rule 8 provides that; One person may sue or defend on behalf of all in same interest.***

(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 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.*

(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;*

(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*

(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 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 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.”*

It is true that, all the other 9 Claimants in the intended Labour Dispute and who intended to be represented by the Applicants, were in court on 21/02/2022, when the matter was heard *ex parte* they all confirmed to court that, they had consented to the Applicants representing them in the intended **LDR 198 of 2021**.

We considered the written consent of the other 9 intended Claimants which was attached to the record marked C1 and the claim which indicted that, they all have the same and actual existing interest in the suit as is required under sub rule 2 of Order 1 as amended and are satisfied that, the Applicants have proved that they are authorised by all the other 9 intended Claimants who intend to be represent by them.

Sub rule (4) of Order 1 provides that;

*“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 public advertisement, as the court may in each case direct.”*

All the other 9 intended Claimants having consented in writing to be represented by the Applicants and having confirmed their consent in open court on 22/02/2022, there is no need for court to give further notice as provided under sub rule 4 (supra).

In the circumstances, we have no reason not to dispense with the requirement to issue notice as provided under Order 1 rule 4(supra), it is therefore dispensed with and a representative order is hereby granted to the Applicants.

delivered and signed by:

**1.HON. LADY JUDGE LINDA LILLIAN TUMUSIIME MUGISHA .....**

**PANELLIST**

**1. MS. HARRIET NGANZI MUGAMBWA .....**

**2.MS. EBYAU FELIX .....**

**3. FX MUBUUKU .....**

**DATE:: 4/03/2022**