

**REPUBLIC OF NAMIBIA**



**LABOUR COURT OF NAMIBIA MAIN DIVISION, WINDHOEK**

**JUDGMENT**

Case no: LC 97/2015

In the matter between:

**WALVIS BAY SALT REFINERS (PTY) LTD**

**APPLICANT**

And

**MINE WORKERS UNION OF NAMIBIA  
CONFRANCO FERIS & OTHERS  
LABOUR COMMISSIONER**

**1<sup>ST</sup> RESPONDENT  
2<sup>ND</sup> TO 178<sup>TH</sup> RESPONDENT  
179<sup>TH</sup> RESPONDENT**

**Neutral citation:** *Walvis Bay Salt Refiners (Pty) Ltd v Mine Workers Union of Namibia* (LC 97/2015) [2015] NALCMD 16 (15 July 2015)

**Coram:** UNENGU AJ

**Heard:** 15 July 2015

**Delivered:** 15 July 2015 (Ex tempore)

**Judg. made available:** 23 July 2015

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**ORDER**

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- (a) The points *in limine* are upheld.
- (b) The application is dismissed with costs, which costs to include costs of one instructing and one instructed counsel.

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**JUDGMENT**

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UNENGU AJ:

[1] I have listened to the arguments and also the authority referred to me by both of you in particular Mr Barnard in order to support these points *in limine* and I have listed five points *in limine* raised by the respondent, Mr Barnard on behalf of the respondents. So each of this points *in limine* can have the effect of the application to be dismissed and in particular the one I have pointed out to you Ms Heydenreich the one of the parties. It would seem to me that he might be correct that a wrong party is here before me today not the right party, namely Walvis Bay Salt Holdings.

[2] Walvis Bay Salt Holdings was the first party which was cited when the dispute of interest was declared between that particular party or company and these respondents now suddenly another party or another company has to come before court against the respondents. They did not see this Refiners during the reconciliation or conciliation proceedings. If they were wrong in citing the party that day I believe that must have been corrected or rectified by the applicant during the reconciliation proceedings, that, no you are not employees of Holdings but you are employees of the Refiners you have cited a wrong party here so you know Holdings will not take part in the conciliation proceedings between you and Holdings because holdings is not your employer.

[3] You have to cite your employer if you want, you know, this company or us to take part in the conciliation. But despite that it did not happen. Holdings was allowed, you know to proceed with the conciliation proceedings up to the end where it failed and then at a striking stage, nothing you know was corrected so the people or the respondents were brought under the impression that yes that is Holdings who are or who is the employer of the respondents whereas it was not the case if I had to take your argument.

[4] It is only now on an urgent basis Refinery is coming in. Refiners was never there at the beginning of this dispute that in my view is very very fatal to the applicant's application so on the basis of that alone, you know, I have to dismiss or to uphold the point *in limine* and coupled with the other points *in limine* raised by Mr Barnard as well as the cumulative effect of all these surely have the effect

[5] In the result the following orders are made:

- (a) The points *in limine* are upheld.
- (b) The application is dismissed with costs, which costs to include costs of one instructing and one instructed counsel.

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E P UNENGU  
Acting Judge

APPEARANCES

APPLICANT:

A Heydenreich  
De Beer Law Chamber, Windhoek

1<sup>ST</sup> – 178<sup>TH</sup> RESPONDENTS:

P Barnard  
Angula Co. Inc.