



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Cause 842 of 2010

KENYA UNION OF ENTERTAINMENT AND

MUSIC EMPLOYEE.....CLAIMANT

VERSUS

M/S VANGUARD LIMITED.....RESPONDENT

RULING.

By a Notice of Motion dated the 19th October, 2012 the grievants moved this court for the following orders

1. That the claimant be ordered to pay the five grievants their money which the Respondent forwarded to the Claimant, and which the Claimant has converted to its own use.
2. The Claimant be barred from deducting one third of each grievants entitlement and from deducting alleged “union dues” since the grievants were contributing to the union through monthly deductions of their salaries.

3. Any other directions which the Honourable Court may wish to give to prevent the Claimant from subverting the judgement of this Honourable Court delivered on 9th December, 2010 (Hon. Justice Kosgei), and prevent the Secretary General of the Claimant from abusing his office.

The application is grounded on the following grounds;

1. The Claimant was paid by the Respondents the calculated dues of the grievants as ordered by the Court but has refused to forward the same to the said grievants.
2. The Secretary General of the Claimant says that even if the money was to be paid, one third of it will go to the Claimant, and another amount will be deducted as union “Union dues” but the said judgment of this Honourable Court does not provide for these spurious deductions.
3. If the orders are not granted, the effect will be to defeat the said judgment, give rise to contempt of Court orders, and bring the dignity of the court into disrepute.
4. The affidavit of JOHNSTON GICHAGO.

and is supported by the affidavit of Johnston Gichago sworn on 19th October, 2012 The respondent through the Assistant Secretary General of the claimant filed a replying affidavit sworn on 2nd November, 2012 on 6th instant and agreed with the claim as per the Notice of Motion. These sentiments were repeated at the hearing and he submitted that he would leave the matter to court for determination.

The grievants submissions are that this application arises out of Industrial Court Cause No. 842 of 2010 of the same parties where judgement was entered in favour of these five grievants and others. That these

grievants being part of the fourteen to whom judgement was entered are entitled to the fruits of their judgement and claim the same from the claimant/respondent. The claimant/respondent was paid the entire amount of Kshs. 336,071.00 by the respondent but has defaulted in remitting the grievant's share to themselves.

There does not appear to be any dispute regarding dues to the grievant/applicants. These are not denied or opposed, or at all. I therefore order the respondent union to pay the grievants/ applicants their dues as follows;

- a). Johnson Maina Gichago - Kshs. 73,333.00
- b). Wilfred Ochien gAkiki - Kshs. 26,667.00

- c). Jane Karuga - Kshs. 74,667.00

- d). Florence Gichago - Kshs. 39,667.00
- e). Irene Siyatta - Kshs. 25.060.00

Total - Kshs. 239,394.00

2. That the claimant be and is hereby barred from deducting one third or any deductions whatsoever from the grievants entitlements as union dues or at all.
3. The costs of this application shall be borne by the respondent.

Dated and delivered the **24th** day of **April**, 2013.

D.K. Njagi Marete
JUDGE

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Appearances

1. E. N. Mugu instructed by E.N. Mugu & Company Advocates for the applicants
2. Erick Maurice Ochieng for the claimant/respondent.