



**Shikolio v Transmara Sugar Company (Cause 5 of 2022)  
[2025] KEELRC 2669 (KLR) (2 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2669 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU  
CAUSE 5 OF 2022  
JK GAKERI, J  
OCTOBER 2, 2025**

**BETWEEN**

**ABUBAKAR ASLAN SHIKOLIO ..... CLAIMANT**

**AND**

**TRANSMARA SUGAR COMPANY ..... RESPONDENT**

**RULING**

1. Before the court for determination is the applicant's Notice of Motion dated 24<sup>th</sup> July, 2025 filed under Certificate of Urgency seeking Orders that:
  1. Spent.
  2. The Honourable Court be pleased to make an amendment to the Judgment dated 11<sup>th</sup> September, 2024 in order to give clarity and/or translate the orders awarded to the claimant.
  3. The Honourable Court be pleased to transfer the file to Nairobi for carrying out of prayer (2) above and placed before Honourable Justice Stephen Radido.
  4. The costs of this application be borne by the Respondent.
2. The Notice of Motion is expressed under Order 50 Rule 1 and Order 23 Rule 1, 3, 4 and 8 of the Civil Procedure Rules and Sections 1A, 1B, 3A, 33, 34, 89 and 99 of the *Civil Procedure Act* and is based on the grounds set forth on its face and the Supporting Affidavit of Mr. Abubakar Aslam Shikolio sworn on 24<sup>th</sup> July, 2025 who deposed that as per the Judgment and Decree he was awarded the equivalent of 2 months gross salary, Kshs.330,808.00, compensation, Kshs.230,808.00 and interest at court rates Kshs.27,426.
3. The affiant admits that the respondent paid the sum of Kshs.398,000 and deposes that the sum of Kshs.165,463.00 was outstanding as the decretal sum was Kshs.563,463.00 and different with the conclusion and interpretation of the Honourable Court in its ward which had delayed payment of



- the decretal sum and believed that the court awarded him the equivalent of 2 months gross salary, compensation of Kshs.230,808.00, interest at court rates from date of judgment and costs at half scale.
4. That the court wrongly typed the Judgment by citing damages as compensation which occasioned the back and forth the between the parties.

### **Respondent's case**

5. In opposition to the Notice of Motion, the respondent filed a Replying Affidavit sworn by Mr. Dickens M. Ouma on 29<sup>th</sup> July, 2025 who deposed that the instant motion ought to have been grounded on Rules 45, 47 and 75 of the Employment and Labour Relations Court (Procedure) Rules, 2024.
6. The affiant further deposed that under paragraph 12 of the Judgment, the court was satisfied that the respondent had complied with the statutory requirements on procedural fairness but found that the claimant had failed in his duties and the respondent had also failed to emplace adequate security measures to ensure that night guards did not steal lubricants and the court awarded the claimant an equivalent of 2 months gross salary at Kshs.165,404.00 per month as fair compensation.
7. That the trial court awarded Kshs.203,808 as compensation as the 2 months gross salary compensation and the figure ought to have been Kshs.303,808.00 in lieu of Kshs.203,808.00 and no statutory deductions were made.
8. According to the affiant, the court awarded the claimant the equivalent of 2 months gross salary as compensation and the Decree extracted had a material defect as it did not accord with the judgment of the court and was thus not actionable.
9. The affiant further deposed that transfer of the file to Nairobi for action by Radido J. was unnecessary as the Judgment was clear and required no interpretation.
10. Finally, the affiant deposed that the Judgement Debtor paid the sum of Kshs.398,059, which the applicant's counsel acknowledged receipt.

### **Analysis and determination**

11. It is common ground that by a Judgment delivered on 11<sup>th</sup> September, 2024, the trial Judge made certain awards namely;
  1. Compensation Kshs.230,808.00
  2. Interest at court rates from date of Judgment.
  3. Costs on half scale.
12. Under paragraph 24 of the Judgment, the court was unequivocal that the claimant failed in his duties, as under paragraph 26 he failed to conduct weekly stock takes on the mistaken belief that stores kept in the open were not his responsibility.
13. The court however found the termination of the claimant's employment was not in accord with justice and equity as set out in Section 45(4)(b) of the *Employment Act*, 2007.
14. Consequently, the court awarded the equivalent of 2 months gross salary as compensation (at Kshs.165,404.00 per month).
15. Indisputably, the total award was Kshs.330,808.00.



16. However, under the paragraph entitled ‘conclusion and Orders’, the court stated as follows:
- “28. The court finds that the termination of the claimant’s contract did not accord with justice and equity.
  - 29. The claimant is awarded:
    - i. Compensation Kshs.230,808.00
  - 30. The award to attract interest at court rates from the date of Judgment.
  - 31. The claimant is not blameless. He is awarded costs on half scale”.
17. No other award or Order was made by the trial court.
18. Interestingly, the Decree furnished by the applicant dated 28<sup>th</sup> March, 2025 included the award of equivalent of 2 months gross salary, as well as compensation Kshs.230,808.00.
19. From the Notice of Motion, it is unclear as to whether the applicant was seeking a review of the Judgment, clarification or rectification.
20. What is however apparent is that the computation of the award of 2 months gross salary at Kshs.165,4004.00 per month was erroneous as it ought to have been Kshs.330,808 as opposed to Kshs.230,808 as correctly deposited by Mr. Dickens Ouma.
21. The applicant is seeking an amendment to the Judgment to clarify the orders made.
22. It is trite law that the court has inherent jurisdiction to cause the rectification of any clerical or arithmetical errors or omissions in its judgment, ruling or orders.
23. Rule 75 of the Employment and Labour Relations Court (Procedure) Rules, 2024 provides:  
“The court shall at the request of the parties or on its own motion, cause any clerical mistake, incidental error or omission to be rectified and shall notify the parties of such rectification”.
24. In addition, Section 99 of the *Civil Procedure Act* provides:  
“Clerical or arithmetical mistakes in judgments, decrees or Orders or errors arising therein from any accidental slip or omission may at any time be corrected by the court either of its own motion or on the application of any of the parties.
25. In *Vallabdas Karsadelas Raniga V Mansukhlal Jivraj & Others* [1965] EA 780, the Court of Appeal of Eastern Africa held:  
“Section 3(2) of the *Appellate Jurisdiction Act* confers on the Court of Appeal the same jurisdiction to amend judgments decrees and orders that the High court has under Section 99 of the *Civil Procedure Act* making it unnecessary to look to the inherent powers of the court. The words “at any time” in Section 99 clearly allow the power of amendment to be exercised after the issue of a formal Order... Slip Orders are made to rectify omissions resulting from the failure of counsel to ask for costs and other matters to which their clients are entitled... A court will only apply the slip rules where it is fully satisfied that it is giving effect to the intention of the court at the time when judgment was given or in the case of a matter which was overlooked where, it is satisfied, beyond doubt as to the order which it would have made had the matter been brought to its attention...”



26. See also *Lakhamshi Brothers Ltd V R. Raja & Sons* [1966] EA 313, *Nedemar Technology B V Ltd V Kenya Anti-Corruption Commission & another* [2009] eKLR and *Fredrick Otieno Outa V Jared Odoyo Okello & 3 Others* eKLR on the scope of the slip rule.
27. In the instant case, the only discernible arithmetical error in the judgment dated 11<sup>th</sup> September, 2024 is the product of multiplying 165,404 with 2 which is Kshs.330,808.00 and NOT 230,808 as the trial court indicated, which was the only monetary award made by the court.
28. As regards the Decree on record, dated 28<sup>th</sup> March, 2025, the court is in agreement with the respondent's deposition that it is not in accord with the court's judgment dated 11<sup>th</sup> September, 2025.
29. A plain reading of the Judgment reveals that the trial court awarded the claimant an equivalent of 2 months gross salary as compensation, presumably in accordance with the provisions of Section 49(1) (c) of the *Employment Act* and the total award was the erroneous figure of Kshs.230,808 awarded as compensation. It ought to have occurred to the Deputy Registrar that the award of Kshs.230,808 as compensation was an incorrect product of Kshs.165,404 multiplied by the two months awarded and the compensation due to the claimant was captured under paragraphs 29, 30 and 31 of the Judgment.
30. Having included the 2 months gross salary as part of the Kshs.230,808.00 had no basis in the body of the Judgment and was arguably redundant.
31. Although the respondent ought to have challenged the decree as soon as a copy was availed by the claimant's counsel, by awarding the claimant twice for the same item, the additional award would amount to unjust enrichment.
32. Contrary to the applicant's deposition that the trial court erroneously typed the damages as compensation, the court made no error in typing for the simple reason that it did not award damages and the claimant did not demonstrate that the court awarded any damages. In the court's view the Decree dated 28<sup>th</sup> March, 2025 was erroneous and ought to be corrected by deleting item number 3 of the Decree in totality.
33. The upshot of the foregoing is that the Judgment dated 11<sup>th</sup> September, 2024 be and is hereby corrected and/or rectified so as to read under paragraph 29(i)
34. Compensation, Kshs.330,808.00.
35. No clarification is necessary as none was prayed for and as averred by the respondent, the judgment was not only clear but unambiguous as far as the findings were concerned.
36. The upshot of the foregoing is that the applicant's Notice of Motion dated 24<sup>th</sup> July, 2025 is partially successful.

Parties shall bear their own costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KISUMU ON THIS 2<sup>ND</sup> DAY OF OCTOBER, 2025.**

**DR. JACOB GAKERI**

**JUDGE**

Order

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They



have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court has been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

**DR. JACOB GAKERI**

**JUDGE**

