



**Muthama & 5 others v Kenya Tea Development Agency Holdings Limited
(Petition E161 of 2025) [2025] KEELRC 3020 (KLR) (30 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3020 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION E161 OF 2025
HS WASILWA, J
OCTOBER 30, 2025**

BETWEEN

**FRANCIS MWENDA MUTHAMA 1ST PETITIONER
ITUNGA ROBERT KOOME 2ND PETITIONER
SIKUKUU SAMUEL CHARO 3RD PETITIONER
KIPLANGAT ALFRED KORIR 4TH PETITIONER
CHRISPIN ERICK KILO MWAKIO 5TH PETITIONER
DICKSON MUEMA MUINDU 6TH PETITIONER**

AND

KENYA TEA DEVELOPMENT AGENCY HOLDINGS LIMITED RESPONDENT

RULING

1. The Petitioners/Applicants filed a Notice of Motion dated 21st August 2025 seeking orders that: -
 1. Spent
 2. Pending inter-parties hearing and determination of this application, the Honourable court be pleased to grant an interim order restraining the Respondent, its Agents, Servants and anybody claiming through it from harassing, intimidating, threatening, investigating, dismissing, interdicting, discussing, passing a decision and in any other way interfering with Petitioners' employment.
 3. Pending interparties hearing and determination of this Petition, the Honourable court be pleased to grant an interim order restraining the Respondent, its Agents, Servants and anybody claiming through it from



hara ing, intimidating, threatening, investigating, dismissing, interdicting, discussing, passing a decision and in any other way interfering with Petitioners' employment.

4. Pending inter-parties hearing and determination of this application, the Honourable Court be pleased to grant an interim order suspending/staying any decision made by the Respondent further to the disciplinary meeting held on 20th August 2025 regarding the Petitioner's Employment.
5. Any other relief the court deems fit to grant;
6. Costs of this application be in the cause.

Petitioners/Applicants' Case

2. The Applicants aver that the said Petitioners were subjected to a disciplinary process which was flawed, irregular, and in breach of the Respondents Human Resource Manual and unconstitutional.
3. The Applicants aver that the procedure of the issuance of the Notice to show cause as per the Human Resource Manual Clause 6.5.3 was not adhered to
4. It is the Applicants' case that they were not issued with any audit reports in order for them to adequately prepare for their defence and for the examination at the disciplinary committee hearing as per the Clause 6.7 of the Human Resource Manual.
5. In breach of Clause 6.7 of the Human Resource Manual, the disciplinary hearing was conducted with the full member board of the Respondent rather than a disciplinary committee.
6. The Applicant avers that the said hearing was conducted on the 20th August 2025 at the Respondent's offices and they are apprehensive that the said board will render an unlawful verdict any time, which will infringe on their constitution rights.

Respondent's Case

7. In opposition to the application, the Respondent field a replying affidavit dated 12th September 2025 sworn by its Group General Manager (Human Resources & Administration), Dr. Charles Kireru PhD.
8. The Respondent avers that the 1st Petitioner has not demonstrated that he has authority to file the Petition on behalf of the other 5 Petitioners and the other Petitioner's respective claims therefore have no grounding and should be rejected on that ground alone.
9. The Respondent avers that in respect of the 2nd Petitioner, the Show Cause Letter issued to him as well as the letter sending him on leave were clearly issued by an entity known as Chai Trading Company Ltd - which is a separate entity and having not been enjoined in matter herein renders the petition and application fatally defective.
10. Other than the 1st Petitioner, none of the other Petitioners had a contract of employment with the Respondent and their respective claims are directed to an entity that was not their employer. No material has been presented in relation to the 3rd, 4th and 5th Petitioners which point to any cause of action that would warrant the issuance of any orders in their favour.
11. The Respondent avers that the subject matter of the petition is general employer - employee disputes pertaining to perceived breach of the terms of employment contracts. Such claims can suitably be handled through a Memorandum of Claim more so because the Respondent is not a public body against whom public law remedies should ordinarily be sought against.



12. The Respondent avers that the Petitioners have not made out a prima facie case or met the threshold of any case entitling them to the grant of conservatory orders under the principles laid out by the Supreme Court in the case of *Gatirau Peter Munya Vs. Dickson Mwenda Githinji* [2014] eKLR.
13. The Respondent avers that the petition does not comply with the requirements in the *Anarita Karimi Njeru v The Republic (1976-1980) KLR 1272* which were upheld in *Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others (2013) eKLR* which require an Applicant to specify the exact Constitutional violations that have been perpetrated by the Respondent.
14. The Respondent avers the Petitioners action of rushing to this court for relief was not only premature but goes against the principle that requires Applicants to exhaust other parallel remedies first.
15. The Respondent avers that though the Petitioners claim that they were not supplied with the forensic audit by Forvis Mazaras, they have failed to demonstrate that they requested for the same and the Respondent rejected the request or otherwise failed to make it available.
16. It is the Respondent's case that the Petitioners were terminated for justifiable cause as they had engaged in negligent and deliberate activities that occasioned losses of substantial sums of monies.
17. The Respondent avers that if the Petitioners eventually succeed, they would be entitled to damages which are an adequate remedy thus rendering the issuance of a conservatory order unnecessary.
18. The Respondent avers that the Petitioners have failed to make out a prima facie case or any case whatsoever entitling them to the grant of conservatory orders. In the circumstances, the public interest tilts against granting the orders sought.

Petitioners/Applicants' Submissions

19. The Applicant submitted that *the Constitution* and the *Employment and Labour Relations Court Act*, grants an applicant the opportunity to approach the Court to issue temporary orders where it is proved by affidavit that any of his rights are in danger of being infringed and/ or have been infringed. The Applicants affidavit has amply shown this is the case and they are deserving of the interim orders sought.
20. It is the Applicant's submission that for grant of conservatory, party is required to establish any of the principles laid down in the celebrated case of *Giella vs Cassman Brown*. However, a party is not required to prove the existence of all the principles as was held in *Mombasa High Court ELC. Case No. 81 of 2015, Rhoda Wambui vs Fatuma Mohammed & Others*.
21. The Applicant submitted that they have shown that they do have a prima facie case and deserving of the orders sought.
22. I have examined all the averments and submissions of the parties herein. The application seeks interim reliefs pending hearing of this petition. They contend that their right to a fair disciplinary hearing was flouted hence the prayers.
23. From the proceedings, I have considered the affidavit in support by the 1st petitioner who says he has authority to represent the other petitioners. There is also annexed a letter of dismissal of another employee dated 25/8/2025. The apprehension by the applicant is therefore valid.
24. The applicants have averred that they are being subjected to a flawed disciplinary process. This court cannot interfere with an internal disciplinary process between an employee and employer and when the court interferes its powers would be geared towards putting the right procedure in place.



25. Given the averments of the parties, this court orders herein will be directed at staying a flawed process and therefore I grant order that any disciplinary process through a flawed process be stayed pending hearing of this petition. Costs in the petition.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 30TH DAY OF OCTOBER 2025.

HELLEN WASILWA

JUDGE

