



Mahondo v Craft Silicon Limited & another (Employment and Labour Relations Cause 453 of 2020) [2025] KEELRC 2889 (KLR) (23 October 2025) (Judgment)

Neutral citation: [2025] KEELRC 2889 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE 453 OF 2020**

**MN NDUMA, J
OCTOBER 23, 2025**

BETWEEN

RONALD OTIENO MAHONDO PETITIONER

AND

CRAFT SILICON LIMITED 1ST RESPONDENT

LITTLE LIMITED 2ND RESPONDENT

JUDGMENT

1. The suit by the Claimant is founded on an amended memorandum of claim dated 9/2/2021 in which the Claimant seeks the following reliefs:-
 - i. A declaration that the Respondent unfairly and unlawfully terminated the employment of the Claimant.
 - ii. An order directing the Respondent to pay the Claimant two months' salary in lieu of notice as follows:
 - a. 2 months' salary in lieu of notice @ Kshs. 340,000/= per month totaling Kshs. 680,000/=.
 - iii. An order directing the Respondent to pay the Claimant damages for unlawful termination as follows:
 - a. 12 months' salary @ Kshs. 340,000/= per month totaling Kshs. 4,080,000/=.
 - iv. An order directing the Respondent to pay the Claimant 1% value of the company being 1% x USD. 75,000,000 = USD. 750,000.00
 - v. An order directing the Respondent to pay the Claimant service pay as follows:



- a. 15 days' salary for one year of complete service with the Respondent amounting to Kshs. 170,000/=
 - vi. Costs of the suit
 - vii. Leave earned and not taken
 - viii. Interest on [ii], [iii] and [iv]
 - ix. An order directing the Respondent to issue the Claimant with a certificate of service that is not prejudicial to the Claimant.
2. The Claimant adopted a witness statement dated 21/2/2020 as his evidence in chief and testified that he was employed by the 1st Respondent on or about July 2016 and was offered Kshs. 240,000/= monthly salary in the position of General Manager. The salary was increased to Kshs. 340,000/= after six [6] months period after the Claimant had set up and operated the 2nd Respondent which was a new business venture related to the 1st Respondent as a sister company.
3. The Claimant testified that he had negotiated the increase of his salary upon being offered a General Manager position by a different company. That it was at that point when RW1 offered the Claimant the Kshs. 100,000/= extra pay to Kshs. 340,000/= aforesaid and RW1 also offered the Claimant 1% share in the 2nd Respondent's company unconditionally and that upon further growth of the company the Claimant would be offered a 1% share of the company to make it 2% share. The Claimant said he wholly accepted the new terms and signed the employment contract whose terms took effect immediately but a copy of the contract was not given to him.
4. The Claimant stated that the new contract outlined the extent of his duties as General Manager including being in charge of daily operations of the 2nd Respondent, developing policies including Human Resource Polices and crafting of general financial operations. The Claimant more importantly was to ensure success of the business of the 2nd Respondent as a new set up and was to ensure that it became a going concern.
5. The Claimant testified that he performed well and diligently and achieved tremendous growth of the company in clientele as well as an increase in the book-value of the company to over USD 300 Million.
6. The Claimant said he continued to pursue for a copy of his contract of employment from the Human Resource Department without success and was informed that the 1st and 2nd Respondents kept the copies. That these attempts angered the Respondent who even tried to frame the Claimant with false allegations and upon getting a tip on the matter confronted the management with the issue.
7. The Respondents thereafter purported to carry out a prejudged job review which was merely meant to create grounds for the Claimant's ouster and eventual termination of employment.
8. The Claimant said that because he was aware of the scheme, he privately recorded the several meetings he held between himself and the management which record was admitted in court as electronic evidence no. '16' as authenticated by a certificate in terms of the Evidence Act, Cap 80 laws of Kenya.
9. That on or about May 2007, the 2nd Respondent convened a purported "disciplinary hearing" premised on false and flimsy grounds of a performance review that was conducted contrary to the Employment Act, 2007. That this was a result of the persistent demand and not being supplied with a copy of his employment contract. The Claimant also recorded the charade orchestrated with a singular view of ousting him from the company to prevent him from benefitting from the 1% equity of the company provided in his contract of employment.



10. The Claimant produced exhibits '1' to '16' which reflected the journey he had taken in the employment of the 2nd Respondent and the gross mis treatment he suffered under the hands of the CEO's wife, Mrs. Prya who was used as a front to harass and humiliate him to lay the basis for his ouster from the company.
11. The Claimant underwent a blissful cross-examination by Advocate Nyanchoga for the Respondent and he remained consistent and persistent in his narrative regarding the terms and condition of service offered to him in a signed contract of employment which the Respondent had refused to give him a copy of upon the same being sent to the Human Resource Department for the signature by the 2nd Respondent after the Claimant had appended his signature and continued to work and was paid in terms of the said contract as the General Manager. The Claimant prayed to be awarded the reliefs sought in this matter.

Defence

12. The Respondent called Kamal Budhabhatti, the CEO of the 1st and 2nd Respondents to testify in defence of the suit. RW1, adopted a witness statement dated 20/11/2020 as his evidence in chief. RW1 produced exhibits '1' to '19' in support of the defence case. RW1 said the Claimant was employed by the 2nd Respondent vide a contract of employment dated 22/4/2016. RW1 said the 1st and 2nd Respondent were sister companies distinct and separate from each other though resources from the 1st Respondent an older company were applied to set up the business and operations of the 2nd Respondent.
13. In the said contract the Claimant was employed on a two [2] year contract as the General Manager with the 2nd Respondent with duties well set out under clause 2 thereof. The Claimant was tasked with setting up and growing the new business of 'Little' Taxi service as a viable going concern. The Claimant was placed on six [6] months' probation. The monthly salary was Kshs. 240,000 including other benefits such as medical insurance cover and reimbursable travel expenses on duty within and outside Kenya. Termination was by giving one month notice and included annual leave of 21 days, sick leave and two [2] weeks paternity leave. The agreement is signed by both parties on 22/4/2016.
14. RW1 stated that upon completing the 6 months' probation period in April 2016, the 2nd Respondent increased the Claimant's salary from Kshs. 240,000/= to Kshs. 340,000/=. That same was merely administrative and not purely based on the Claimant's performance. RW1 did not produce any documentation regarding the change.
15. RW1 denied that the Claimant was promised any shareholding in the company having worked for only six [6] months.
16. That the Claimant acting in breach of the contract continuously failed to keep proper records of mobile phone corporate contracts and process orientation, and oversight which resulted in the 2nd Respondent making losses.
17. That the Claimant falsified information on B. A. downloads which exposed the 2nd Respondent to the possibility of Kshs. 350,000,000 loss.
18. That the Claimant failed to complete the requisite documentation and following other employees to take up the responsibility of doing so hence that demonstrated Claimant's inability to efficiently manage his duties and team.
19. That the Claimant absconded his duties as General Manager during the crucial and sensitive audit period of the 2nd Respondent's operation and accounts damaging the image of the company.



20. That the Claimant failed to fill leave forms including sick and paternity leave forms. This is referenced in the Respondent's memo dated 28th April 2017.
21. That the Claimant was casual, careless and unsystematic in his management of the 2nd Respondent's suppliers resulting in complaints from some of the suppliers and in extreme cases termination of contracts with some suppliers seen in the email correspondence with the Claimant dated 16th May 2017.
22. That the Claimant did not get along with colleagues and created a hostile working environment.
23. That the Claimant made numerous unsubstantiated allegations against the 2nd Respondent bordering on defamation intended to cast the 2nd Respondent's Director in bad light. This matter is referenced in the Claimant's memo dated 8/5/2017.
24. That the performance review was a tool by the Respondent to assess the performance of the Claimant after a year. That this shed light on Claimant's poor performance. The Claimant was late in submitting the KPI reports for his staff as well as himself. He did so on 20/4/2017 when the same were due on 17/3/2017. The matter is seen in email correspondence with the Claimant dated 20/4/2017.
25. That the Claimant failed to submit his team's dash boards before 12 p.m. yet the same were due by noon every Thursday resulting in cancellation of a meeting as seen in email correspondence with the Claimant dated 12/5/2017.
26. That despite 2nd Respondent's director imploring the Claimant to improve his relation with his colleagues, the Claimant refused to embrace the spirit and remained dismissive of any positive initiative suggested to him. The letter by 2nd Respondent to the Claimant dated 22/5/2017 is evidence of this.
27. That during the job performance review, the Claimant exhibited aggressive, disruptive, disrespectful, unprofessional and insubordinating behavior towards the 2nd Respondent's Director, Financial Manager and other staff conducting the exercise.
28. That the Director tried to call the Claimant in vain and he became loud and aggressive towards the Director. The Claimant verbally attacked the director and threatened to sue her. The review was called off prematurely as a result.
29. The Claimant was issued with a notice to show cause letter dated 22/5/2017 regarding the insubordination. The Claimant was to respond to the notice to show cause which he did on 28/4/2017 and submissions dated 24/5/2017. The Claimant was advised to bring a fellow employee to the disciplinary hearing scheduled on 24/5/2017. Letter dated 22/5/2017 informed him of the hearing. The minutes of the hearing are dated 29/5/2017.
30. That the Claimant was found guilty of gross misconduct warranting summary dismissal but the 2nd Respondent opted to terminate his employment normally and was notified of the decision by a letter dated 29/5/2017 which gave reasons for the termination. The letter also informed the Claimant that he would be paid terminal benefits including salary for work done upto 29th May 2017. One month salary in lieu of notice and payment for untaken leave days in the sum of Kshs. 633,737.00. The Claimant received the amount by a cheque dated 31/5/2017.
31. The termination was lawful and fair and the suit lack merit and it be dismissed with costs.



DETERMINATION

32. The parties filed submissions which the court has carefully considered together with evidence adduced by CW1 and RW1. The issues for determination are as follows:-
 - a. Whether the termination of the employment of the Claimant was for a valid reason following a fair procedure.
 - b. Whether the Claimant has proved entitlement to specific and general damages claimed.
33. In terms of section 107 and 108 of the *Evidence Act*, Cap 80 Laws of Kenya he who alleges must prove the existence of a fact on a balance of probability. The Claimant adduced oral and electronic evidence to demonstrate that upon completion of six-month probation, he had a meeting with RW1 in which he negotiated for a salary raise, stating that he had been offered a better job by a different company.
34. It is the Claimant's oral and electronic evidence that at that meeting RW1 the CEO of the 2nd Respondent raised his salary by Kshs. 100,000 from Kshs. 240,000.00 to Kshs. 340,000.00. The CEO also awarded the Claimant 1% of the company shareholding and promised the Claimant that should he grow the company further and make it a successful going concern, he would be awarded another 1% share to make it 2% share.
35. The evidence by the Claimant is that the new terms and conditions of service were reduced into a new contract of employment to which the Claimant appended his acceptance signature and forwarded the contract to the Human Resource Department to have the contract signed by the 2nd Respondent. It is the Claimant's evidence that a copy of the contract was never given to him. That his persistent demand for a copy of the contract led to his fall out with the Respondent.
36. That from that time he received harassment, abuse and false accusations especially from the wife of the CEO, who was also a director of the 2nd Respondent.
37. The court notes that the Claimant joined the Respondent company on 1st April 2016. From the testimony of the Claimant, his performance was excellent for the first part of his contract, and as at the time he was granted better terms, he had grown the start-up company from zero to a worth of about 300 million.
38. From the testimony by RW1, the Claimant started receiving adverse memos from the 2nd Respondent from 6th April 2017; 28th April 2017; 10th May 2017; 16th May 2017; 22nd May 2017 culminating with the notice to show cause dated 22/5/2017.
39. This litany of adverse letters to the Claimant in a short space of one month corroborates the Claimant's evidence that he began to be threatened and harassed upon insistence on being given a copy of his contract that had awarded him 1% of company shares.
40. RW1, was captured in the secret recording by the Claimant produced before court speaking to the fact that he had awarded the Claimant 1% shareholding and not 2% shareholding. That the 2nd 1% was dependent on performance of the Claimant going forward.
41. RW1 in his evidence in chief did not explain this issue of the 2nd contract that was not availed to the Claimant. RW1 did not also in chief speak to the claim of 1% share he had awarded the Claimant. Indeed, the CEO evaded the whole issue until he was confronted by the Advocate for the Claimant under cross-examination.



42. This testimony by the Claimant on the source of the acrimony and false accusations that led to his termination is credible, consistent and was not well contradicted by the only witness of the Respondent, RW1. Mere denial set out in the statement of defence of the Respondents does not amount to evidence but remains just empty pleadings in denial without supporting evidence to contradict the version well placed before court by the Claimant.
43. The wife of the CEO and the director of the 2nd Respondent was the main protagonist in this dispute. She was not availed to counter the evidence by the Claimant. RW1 gave hearsay evidence on matters that happened in meetings between the Claimant and his wife. The Respondent failed to counter the credible evidence of persistent abuse, harassment, threats and promise of termination of employment by the wife of the CEO who was also a director of the 2nd Respondent. No explanation was given as to why she was unavailable to counter the credible, consistent and verifiable evidence by the Claimant as to the cause of what the court finds to have been an unlawful and unfair termination of employment, based on trumped up charges, false accusations and devious attempts made solely to stop the Claimant from obtaining a copy of his employment contract through which he was awarded 1% share of the 2nd Respondent company. Thanks to the secretly recorded electronic evidence, which was authenticated and admitted before court, this truth was proved by the Claimant on a balance of probability.
44. The Claimant has proved that the Respondent violated sections 41, 43, 44 and 45 of the *Employment Act*, 2007 in that the Respondent failed to prove that it had a valid reason to terminate the employment of the Claimant.
45. The process of appraisal of the Claimant within a very short period after his salary was increased and was awarded 1% share of the company was skewed, procedurally flawed and no tangible evidence was placed before court to show that the good performance in the first six months of employment had all of a sudden deepened to such a level that his employment was unsustainable.
46. The Claimant's defence against persistent abuse by the CEO's wife was deemed to be insubordination and the reason for the termination without the said wife testifying before the disciplinary committee against the Claimant and/or before this court to justify the termination in terms of section 47[5] of the *Employment Act* 2007.
47. In *Pius Machafu Isindu v Lavington Security Guards Limited* [2017] eKLR, the court found that "there can be no doubt that the Act, which was enacted in 2007, places heavy legal obligation on employees in matters of summary dismissal for breach of employment contract and unfair termination involving breach of statutory law. The employer must prove the reasons for termination/dismissal [section 43]; prove the reasons are valid and fair [section 45]; prove that the grounds are justified [section 47[5], among other provisions. A mandatory and elaborate process is then set up under section 41 requiring notification and hearing before termination."
48. The Respondent failed materially in using incredible trumped up charges to defeat the spirit of the Claimant who was persisted on his right to be given his written contract of employment and to be accorded respect and dignity in his position as the General Manager and founder indeed of the 2nd Respondent which has now become a thriving enterprise courtesy of his effort at the initial stage of the business.
49. In *Caret v Gorch Were Thavali Feed* 917 F. Supp. 969 [ED.M..Y [1996], the Eastern District of New York held that a plaintiffs sweat contribution in the form of searching for real estate developments were sufficient to entitle them to a partnership interest per their agreement.



50. Clearly, the Claimant was awarded 1% share of the company for his stellar effort in starting the 2nd Respondent, but was later victimized in the Respondents' effort to conceal that fact as seen in the recorded minutes of the meeting between CW1 and RW1 at pages 88, 99, 100, 101, 102, 103, 104, 105, 106, 107 and 108. The court is satisfied that the Claimant had been awarded 1% shareholding by the Respondent.
51. In the final analysis the Claimant is not only entitled to compensation for the unlawful and unfair termination of employment but he is also entitled to the 1% share of the company that he had been awarded by the 2nd Respondent.
52. The Claimant was paid in lieu of one month notice in the sum of Kshs. 340,000/= which was his salary under the 2nd contract which was not given to him. The Claimant has not proved that he was entitled to two months' notice of termination. The claim in lieu of two months' notice therefore fails for lack of merit.
53. The Claimant has also not proved that he was entitled to service pay upon termination of his contract in terms of section 35[5] of the *Employment Act* 2007. The Respondent paid statutory dues for the Claimant including NSSF NHIF and PAYE and it was not established whether the 1st or 2nd contract had a gratuity clause. The claim is dismissed for lack of merit.

Compensation

54. The Claimant served for a period of one year. He held a very lucrative position with the potential to earn much more salary and benefits in the company he had established as the first General Manager. The Claimant lost career growth and was not compensated for the loss. The Claimant w
55. as mistreated greatly for the last part of his tenure with a view to deny him his entitlement. The Claimant had not obtained similar employment at the time of hearing this suit. The Claimant was paid terminal benefits upon termination except his shareholding entitlement and compensation.
56. The court has considered the case of *Mary Chemweno Kiptui v Kenya Pipeline Company Limited* [2014] eKLR and the case of *Elizabeth Washeke and others v Airtel [K] Ltd* and another cause No. 1972 of 2012 and all the factors above, to award the Claimant the equivalent of three [3] months' salary in compensation for the unlawful and unfair termination of employment.
57. Accordingly, judgment is entered in favour of the Claimant against the Respondent as follows:-
 - a. Kshs. [340,000 x 3] 1,020,000 in compensation for the unlawful and unfair termination of employment.
 - b. 1% value of the company being 1% x USD 75,000,000 = USD 750,000. This value was not contested by the Respondent who made a bare denial of the claim.
 - c. The claim for payment in lieu of leave was not proved and is dismissed.
 - d. Interest on [a] and [b] from date of judgment till payment in full.
 - e. Costs of the suit

DATED AT NAIROBI THIS 23RD DAY OF OCTOBER 2025.

MATHEWS NDUMA

JUDGE

Appearance:



Mr. Kamade for Claimant

Mr. Nyanchoga for Respondent

Mr. Kemboi – Court Assistant

