



**Kenya National Private Security Workers Union v China State
Construction and Engineering Corporation Limited (Cause E056 of 2022)
[2025] KEELRC 3261 (KLR) (20 November 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3261 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E056 OF 2022
CN BAARI, J
NOVEMBER 20, 2025**

BETWEEN

**KENYA CONCRETE, STRUCTURAL, CERAMIC TILES WOOD PLYS AND
INTERIOR DESIGN WORKERS UNION CLAIMANT**

AND

**CHINA STATE CONSTRUCTION AND ENGINEERING CORPORATION
LIMITED RESPONDENT**

RULING

1. This ruling relates to the Claimant's applications dated 18th June, 2025, wherein the Claimant is seeking the following orders: -
 - i. That, the Respondent be directed to remit trade Union dues equivalent to Ksh.9,040,500/= to the Claimant as ought to have been deducted from its two hundred and ninety-four (294) employees who were then members of the Claimant pursuant to the Decree of this Honourable Court dated the 31st day of January, 2025.
 - ii. That, the Claimant's Application to execute the Decree of this Honourable Court dated 31st day of January, 2025 was to recover the decretal amount.
 - iii. That, the Honourable Court be pleased to issue an order citing the Managing Director of the Respondent for Contempt of Court for refusing and/or failing to comply with the orders and Decree of Court.
 - iv. That, cost of this Application be borne by the Respondent.



2. The Claimant states that the Respondent has blatantly failed and/or refused to comply with the Decree of Court dated the 31st January, 2025, by remitting union dues, which have since accumulated to Kshs.9,040,500/=.
3. It avers that the Respondent has been served with the decree dated the 31st January, 2025, but the management of the Respondent has failed to comply by signing a Recognition Agreement with the Claimant as duly directed.
4. The Claimant states that the Respondent's actions of disobeying the Court orders and decree are a threat to the authority of the Court, and the same should be protected.
5. It avers that there is sufficient reason for this Court to exercise its constitutional and legal authority by issuing orders citing the Managing Director of the Respondent for contempt of court as having refused to comply with the Orders and Decree of the Court dated 31st January, 2025, with impunity.
6. The Respondent opposed the application through grounds of opposition dated 15th September, 2025. It states that the Judgment of the Court delivered on 31st January 2025 is clear, final, and binding, directing that: -
 - i. The Respondent shall deduct and remit trade union dues in accordance with Section 48 of the *Labour Relations Act*.
 - ii. The Respondent shall sign a Recognition Agreement and thereafter execute a Collective Bargaining Agreement (CBA) within 90 days; and
 - iii. The Respondent shall not victimize or harass employees on account of their union membership.
7. The Respondent further avers that it has already complied with Section 48 of the *Labour Relations Act* by deducting and remitting union dues in respect of employees who voluntarily executed check-off forms, and this fact was not placed before the Court at the time of judgment.
8. The Respondent states that the Applicant's computation is illegal and untenable as it improperly includes employees who voluntarily declined to join the union, contrary to Section 48 (2) of the *Labour Relations Act*, which restricts deductions to employees who have individually consented in writing.
9. It avers further that the present application improperly seeks to enlarge, vary, or rewrite the judgment and orders of the Court by introducing a claim for arrears and back dated deductions which were neither pleaded nor ordered. It states that the Court, being functus officio, lacks jurisdiction to grant substantive reliefs outside the judgment and final orders; hence, the Motion is, therefore, a collateral attack on a final order and judgment.
10. It is the Respondent's position that execution proceedings must strictly flow from the orders of the court, and cannot be grounded on extraneous computations relating to non-members.
11. The Respondent avers that the contempt prayers sought are misconceived in law, as contempt jurisdiction cannot be invoked to compel compliance with obligations not expressly ordered and/or directed.
12. The Respondent finally avers that the instant application is bad in law, incompetent, and an abuse of the process of the Court as it seeks to obtain reliefs beyond the scope of the judgment and contrary to statute.



13. The application was canvassed by way of written submissions, which were received from both parties, and have been duly considered.

Analysis and Determination

14. Two issues present for determination: -
- i. Whether the Claimant has demonstrated that the decretal amount of Ksh.9,040,500 is owed pursuant to the Court's judgment of 31st January, 2025; and
 - ii. Whether the Respondent is in violation of the decree and liable for contempt of court.

Whether the Claimant has demonstrated that the decretal amount of Ksh.9,040,500 is owed pursuant to the Court's judgment of 31st January, 2025

15. The Claimant's position is that the Respondent has blatantly failed and/or refused to comply with the decree of the court dated the 31st January, 2025, by remitting union dues, which have since accumulated to Kshs.9,040,500/=.
16. On its part, the Respondent argues that the Judgment of the Court delivered on 31st January 2025 is clear, final and binding, directing that; the Respondent shall deduct and remit trade union dues in accordance with Section 48 of the *Labour Relations Act*, that the Respondent shall sign a Recognition Agreement and thereafter execute a Collective Bargaining Agreement (CBA) within 90 days, and that the Respondent shall not victimize or harass employees on account of their union membership.
17. The Respondent avers further that the Applicant's computation is illegal and untenable, as it improperly includes employees who voluntarily declined to join the union, contrary to Section 48 (2) of the *Labour Relations Act*, which restricts deductions to employees who have individually consented in writing.
18. It is clear from the subject judgment that the Court did not order backdated deductions nor did it declare 294 employees to be union members. Further, a party cannot execute for sums not expressly awarded or not arising directly from the judgment. It is evident that the original decree did not quantify arrears or specify the number of employees, and the Claimant cannot now convert the decree into a monetary claim.
19. In my considered view, execution must strictly follow the decree, and a party cannot use execution to introduce a new claim. In the instant application, the Claimant has not shown that the Ksh.9,040,500 arises from the decree nor that all 294 employees had signed valid check-off forms.
20. It therefore follows that the claim for Ksh.9,040,500 is legally unsupported, and the Claimant's claim for orders in this respect fails.

Whether the Respondent is in violation of the decree and liable for contempt of court

21. On the issue of contempt, the Claimant asserts that the Respondent's actions of disobeying the Court orders and decree are a threat to the authority of the Court, and the same should be protected.
22. The Respondent maintains that the contempt prayers sought are misconceived in law, as contempt jurisdiction cannot be invoked to compel compliance with obligations not expressly ordered and/or directed.
23. To establish contempt, the Applicant must prove the existence of a clear and unambiguous court order, service of the order, and its wilful disobedience.



24. The court notes that the Respondent's assertion that it has been deducting and remitting dues for all employees who executed check-off forms has not been rebutted by the Claimant. It is also clear from a reading of the judgment and decree that the trial court did not order backdated deductions; hence, the alleged arrears cannot be the basis of contempt.
25. It is a well established rule that contempt cannot be invoked to compel performance of obligations not expressly ordered. It therefore follows that even if there is disagreement on computation, that does not constitute wilful disobedience.
26. I therefore find and hold that contempt cannot issue based on obligations not expressly ordered or where compliance is disputed.
27. In the premise, the Claimant's application dated 18th June 2025, fails in its entirety, and is hereby dismissed.
28. I make no orders on costs.
29. It is so ordered.

SIGNED, DELIVERED, AND DATED BY VIDEO-LINK AND IN COURT AT NAIROBI THIS 20TH DAY OF NOVEMBER, 2025.

C. N. BAARI

JUDGE

Appearance:

Mr. Angoya present for the Claimant

Mr. Abule present for the Respondent

Ms. Esther S - C/A

