

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT**  
**ELDORET**

**CAUSE NO. E004 OF 2025**

*(Before Hon. Lady Justice Maureen Onyango)*

**KENYA ENGINEERING WORKERS UNION .....**

**CLAIMANT**

**VERSUS**

**R. M. PATEL & PARTNERS LIMITED .....**

**RESPONDENT**

**JUDGMENT**

1. The Claimant is a trade union registered under The Labour Relations Act to represent employees in the engineering and allied sector.
2. The Respondent is a limited liability company. According to the Claimant, the Respondent's business falls within the jurisdictional area of representation of the Claimant union as per her duly registered constitution and the Claimant therefore has jurisdiction to represent the employees of the Respondent in labour matters.

3. The Claimant avers that the parties have a valid recognition agreement and have negotiated several collective bargaining agreements (CBA)s, the last one being for the period commencing 1<sup>st</sup> July, 2020
4. The Claimant avers that the Respondent stopped remitting union dues from its employees who are the Claimant's members from October, 2023. That monthly subscriptions stood at Kshs. 16,3996 per month which for the 14 months due at the time of filing suit stood at Kshs. 929,732.
5. The Claimant prays for orders as follows:
  - a) THAT, the Honourable Court do and hereby issue an Order against the Respondent to remit union dues of Kshs. 929,744/=to the Claimant with immediate effect.
  - b) THAT, the Honourable Court do and hereby issue an Order against the Respondent to pay interest at Court's rate to the union arrears at 4.1 of Kshs.929,729,744/=.
  - c) THAT, the Honourable Court do and hereby issue an Order against the Respondent to continue deduction of union dues and re-effect remittance with immediate effect.

- d) THAT, the Respondent to effect agency fee with immediate effect from all unionisable employees who might have withdrawn and to those who might have withdrawn and to those who might withdraw with immediate effect.
  - e) THAT, the Honourable Court do and hereby issue an Order against the Respondent to pay agency fee arrears from her own pocket/resources.
  - f) THAT, the cost of this suit be met by the Respondent herein.
  - g) THAT, any other Relief the Honourable Court may deem fit to grant.
6. The Respondent filed a Statement of Response dated 21<sup>st</sup> May, 2025. The Respondent denies the averments in the Memorandum of Claim and avers that it has always deducted and remitted union dues. It denies the existence of a dispute.
7. The Respondent avers that the monthly union dues stood at Ksh. 7,919 per month and not Kshs. 16,396 as alleged by the Claimant.

8. The Respondent States that arrears for 2021 stood at Kshs. 157,520 and was paid off on 7<sup>th</sup> March, 2022 in full.
9. The Respondent further states that the outstanding union dues for 2022 was Kshs. 95,028 of which Kshs. 71,272 was paid in December, 2022.
10. That the arrears as at 1<sup>st</sup> January, 2023 was Kshs. 23,758. That total arrears including 2023 stood at Kshs. 118,786 of which Kshs. 87,110 was paid on 4<sup>th</sup> October, 2023 leaving a balance carried forward to 2024 of Kshs. 31,676.
11. The Respondent avers that the monthly dues increased from Kshs. 7,919 to Kshs. 8,852. That the total union dues outstanding for the year 2024 was Kshs. 137,900. That the amount has not been remitted due to the CBA case in ELDORET ELRC CAUSE NO. E035 OF 2024 filed by the Claimant against the Respondent. The Respondent states it is ready to remit the same.
12. The Respondent filed a counterclaim in which it avers that the Claimant is being unreasonable, high handed and on a fishing expedition. It states that the Claimant is aware that business is bad and the Respondent has been experiencing cash flow

problems which necessitated reorganization resulting in letting go of some of its employees. That the delays in remitting union dues to the Claimant has been beyond its control.

13. The Claimant filed a reply to the Counter claim dated 28<sup>th</sup> May 2025 in which it states that the Respondent has been filing a list of 19 employees which does not contain the names of 11 employees it recruited in 2021 and 2022 and sent check-off forms to the Respondent. It further states that parties negotiated 2 CBAs in 2023 and union dues should have increased by 35%.
14. The Claimant states that the least paid employee of the Respondent earns Kshs. 17,603 and 2% of salary for union dues should be Kshs. 352 per member on the minimum yet the Respondent has been deducting Kshs. 300. That the parties have had issues of remittance of union dues and implementation of CBA that was previously handled by the Ministry of Labour.

### **Determination**

15. From the forgoing the issues for determination are whether the Respondent owes the Claimant union dues, and if so how much; and whether the Respondent has a valid counter claim against the Claimant.
16. Union dues are provided for in section 48 of the Labour Relations Act as follows:

*48.(1) In this Part, “trade union dues” means a regular subscription required to be paid to a trade union by a member of the trade union as a condition of membership.*

*(2) A trade union may, in the prescribed form, request the Minister to issue an order directing an employer of more than five employees belonging to the union to—*

*(a) deduct trade union dues from the wages of its members; and*

*(b) pay monies so deducted -*

*(i) into a specified account of the trade union; or*

*(ii) in specified proportions into specified accounts of a trade union and a federation of trade unions.*

*(3) An employer in respect of whom the Minister has issued an order under subsection (2) shall commence deducting the trade union dues from an employee's wages within thirty days of the trade union serving a notice in Form S set out in the Third Schedule signed by the employees in respect of whom the employer is required to make a deduction.*

*(4) The Minister may vary an order issued under this section on application by the trade union.*

*(5) An order issued under this section, including an order to vary, revoke or suspend an order, takes effect from the month following the month in which the notice is served on the employer.*

*(6) An employer may not make any deduction from an employee who has notified the employer in writing that the employee has resigned from the union.*

*(7) A notice of resignation referred to in subsection (6) takes effect from the month following the month in which it is given.*

*(8) An employer shall forward a copy of any notice of resignation he receives to the trade union*

17. Section 19 of the Employment Act further authorizes deduction of union dues under section 19(f) and (g) which provide:

*(f) any amount the deduction of which is authorised by any written law for the time being in force, collective agreement, wage determination, court order or arbitration award;*

*(g) any amount in which the employer has no direct or indirect beneficial interest, and which the employee has requested the employer in writing to deduct from his wages;*

18. Section 19 makes it an offence for an employer to deduct and fail to remit union dues. The relevant sections provide:

(2) No employer shall make a deduction from the wages payable to an employee as an advance of wages in consideration of, or as a reward for, the provision of employment for that employee, or for retaining the employee in employment. (3) Without prejudice to any right

of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed two-thirds of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to a specified employer or employee or class of employers or employees or any trade or industry.

(4) An employer who deducts an amount from an employee's remuneration in accordance with subsection (1)(a), (f), (g) and (h) shall pay the amount so deducted in accordance with the time period and other requirements specified in the law, agreement court order or arbitration as the case may be.

(5) An employer who fails to comply with the provisions of subsection (4) commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(6) Where proceedings are brought under subsection (5) in respect of failure by the employer to remit deductions from an employee's remuneration, the court may, in addition to fining the employer order the employer to refund to the employee the amount deducted from the employee's wages and pay the intended beneficiary on behalf of the employee with the employer's own funds.

19. From the foregoing it is evident that the Respondent is in violation of both the Labour Relations Act and Employment Act which provide for deduction and remittance of union dues.
20. It is further evident that the Respondent has not been remitting union dues as and when due and has also not been complying with the requirement to send documents and particulars accompanying the remittances as provided by law.
21. For the foregoing reasons the Respondent is directed to immediately pay to the Claimant union the amount which it has admitted that it owes the Claimant being Kshs. 137,899 as at 2024. It is further directed to remit all subsequent union dues up to November, 2025. Such payments to be made not later than 15<sup>th</sup> December, 2025.

22. The Respondent is further directed to deduct and remit all future union dues as provided in section 48 of the Labour Relations Act.
23. The parties are further directed to hold meetings under the Chairmanship of the County Labour Officer to reconcile the apparent differences in the sums due to the Claimant as union dues from the Respondent.
24. The parties will attend court on a date to be taken at the time of reading this judgment for mention to confirm outcome of the meetings. The County Labour Officer to prepare a report and submit to court within 30 days.
25. On what the Respondent has referred to as a Counter- Claim, I find the same to be vexatious and an abuse of court process as it discloses no cause of action. The same is accordingly dismissed.
26. The Respondent shall pay the Claimant's costs of this suit and the counterclaim assessed at Kshs. 50,000, in view of the fact that the Claimant was represented by its official and is not covered by the Advocates Remuneration Order.

**DATED, DELIVERED AND SIGNED AT ELDORET  
THIS 21<sup>ST</sup> DAY OF NOVEMBER, 2025.**

**M. ONYANGO  
JUDGE**