



REPUBLIC OF KENYA



**Nderitu & 54 others v Telkom Kenya Limited & another (Civil Suit
165 of 2006) [2025] KEHC 18040 (KLR) (5 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18040 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CIVIL SUIT 165 OF 2006
JM NANG'EA, J
DECEMBER 5, 2025**

BETWEEN

DUNCAN N NDERITU	1ST PLAINTIFF
CRISPINE ODUOR OBAT	2ND PLAINTIFF
WILFRED SIREKA KANDALLA	3RD PLAINTIFF
ONDIEK PETER ODHIAMBO	4TH PLAINTIFF
ABRAHAM GICHUKA GITAU	5TH PLAINTIFF
JOSEPH KIPRONO CHERUIYOT	6TH PLAINTIFF
DAVID KIPRUTO SONGOK	7TH PLAINTIFF
SOLOMON AMANDA LUGANY	8TH PLAINTIFF
JOSEPH KIBIEGIO	9TH PLAINTIFF
MARTIN MUNJOGU MUNYUI	10TH PLAINTIFF
SIMON KIIMNAGA NGUNGU	11TH PLAINTIFF
FENTO MISIKO ASILI	12TH PLAINTIFF
DANIEL KONGO KARANJA	13TH PLAINTIFF
JEREMIA KIBET KOECH	14TH PLAINTIFF
EMMY CHEPTOO CHERUIYOT	15TH PLAINTIFF
JAMES NJUE NGINYANE	16TH PLAINTIFF
SIMO MUTHEE MUTERO-᠒	17TH PLAINTIFF
EZEKIEL KIPROTICH KIPKEI	18TH PLAINTIFF
CHARLES KIPRUTO NGENY	19TH PLAINTIFF



SIMON MWANGI NGAARI	20 TH PLAINTIFF
STEPHN OKORUBO	21 ST PLAINTIFF
JOYCE CHEPNGETICH	22 ND PLAINTIFF
PROTUS WAMALWA SISUNGO	23 RD PLAINTIFF
PROTUS WAMALWA SISUNGO	24 TH PLAINTIFF
RICHARD KIPRONO MIBEI	25 TH PLAINTIFF
JOHN KIPROTICH KIPTUM	26 TH PLAINTIFF
JOSEPH ADIMO	27 TH PLAINTIFF
JOHANA TIROP KOECH	28 TH PLAINTIFF
WILSON KIPNGETIHC CHERUIYOT-	29 TH PLAINTIFF
CATHERINE BET'TY NYAMBURA MATHENGE	30 TH PLAINTIFF
MARY CHEPKEMOI LANGAT	31 ST PLAINTIFF
ELIMA KOSGEI	32 ND PLAINTIFF
EUNICE GATHONI KANGUURA	33 RD PLAINTIFF
AUGUSTINE OKUMU ONYANGOHELEN NDUTA MWAI-	34 TH PLAINTIFF
FRANCIS KKIPOO NGETICH	35 TH PLAINTIFF
JACKSON MUSEU IKUNI	36 TH PLAINTIFF
BONEAS OKELO SIAMBE	37 TH PLAINTIFF
CATHERINE MUTHONI MUSILI	38 TH PLAINTIFF
LUKAH MURREY KEMBOI	39 TH PLAINTIFF
JAMES SEWE NYAGUTI	40 TH PLAINTIFF
DANIEL KIPSANG KORIR	41 ST PLAINTIFF
WESLYE CHERUIYOT ROTICH	42 ND PLAINTIFF
DAVID KAMAU NJENGA	43 RD PLAINTIFF
ALFRED JOHATHAN BII	44 TH PLAINTIFF
FREDERIS MUSILI MWALILI	45 TH PLAINTIFF
LEONARD CHEROP KIBIWOT	46 TH PLAINTIFF
SAMUEL KIPLAGAT AYABEI	47 TH PLAINTIFF
SIMON KIPTOO KIPSANG	48 TH PLAINTIFF
BENJAMIN KIBOR YANO	49 TH PLAINTIFF
JAMES CHUMO	50 TH PLAINTIFF
SIMON OLE KASALE	51 ST PLAINTIFF



DUGILAS LEMAYION OLENKORIKA 52ND PLAINTIFF
GEORGE GITHUA KAMA 53RD PLAINTIFF
JACKSON KAMAU GACHA 54TH PLAINTIFF
ALICE LANGAT 55TH PLAINTIFF

AND

TELKOM KENYA LIMITED 1ST DEFENDANT
GILGIL TELECOMNS INDUSTRIES LIMITED 2ND DEFENDANT

RULING

1. The Plaintiffs bring a Notice of Motion dated 19th June, 2025 for orders as hereunder:
 1. Spent.
 2. That the Honorable Court be pleased to review the Judgment delivered by Hon. Justice Luka Kimaru dated 13TH July, 2011 directing that the salary arrears and house allowance arrears due to each Plaintiff be calculated on the basis of the tables produced by PW3 as Plaintiff's exhibits No.8 and No. 9 by entering Judgment for the Plaintiffs/Applicants for the specific sum of Kshs.46,569,184.14 (being Kshs.15,733,033.55 principal sum + Kshs.30,836,250.59 interest from 13th July 2011 to 30th June 2025) in line with the Court of Appeal's decision dated 4th November 2016, 6th November 2020 and 5th June 2025 in Civil Appeal No. 147 of 2013 Gilgil Telcoms Industries Limited –v- Duncan Nderitu & 55 Others.
 3. That costs of this Application be borne by the Defendants/Respondents.
2. The Application is supported by affidavit evidence of the 1st Plaintiff (Duncan Nderitu) purportedly offered on behalf of the other Plaintiffs. It is averred inter alia that on 13th July, 2011 Judgment was entered in favour of the Plaintiffs for a declaration that they were entitled to improved terms of service negotiated by their Union until termination of their respective employment. My elder brother Hon. Justice Kimaru J, as he then was, is said to have directed in his Judgment that tables exhibited by the Plaintiff's Witness No.3 as Exhibits 8 and 9 would form the basis of computation of the Plaintiffs' salary and house allowance arrears up to 15th June 2006 when their services were terminated.
3. The Defendants' Appeal to the Court of Appeal vide CACA NO.147 of 2013 was partially allowed. Whereas this court's Judgment declaring that the Plaintiffs were entitled to benefits under the raised terms of service was upheld, the Plaintiffs contend that the Court of Appeal in its order of 4th November, 2016 set aside the order directing calculation of the accrued arrears using the stated tables, for not being specific.
4. According to the Plaintiffs, the Defendants declined to execute a draft order prepared in terms of the superior court's decision. An Application dated 29th November, 2018 for Settlement of Terms the Plaintiffs subsequently filed in the Court of Appeal elicited an order dated 6th November, 2020 reiterating the latter's Judgment delivered on 4th November, 2016 to the extent that the Plaintiffs were entitled to the benefits under the revised terms of service. This court's orders requiring computation of the benefits using the aforesaid Tables 8 and 9 was however, set aside as not specific. The Plaintiffs



lament that the Defendants yet again refused to endorse a draft order extracted from this latest Court of Appeal's decision.

5. The 1st Plaintiff continues to state that the Defendants were not satisfied and mounted another challenge to the Court of Appeal by an Application dated 9th December, 2020. The superior court is said to have again underscored its previous stance by order given on 5th June, 2025. In light of the Court of Appeal's clarification on the dispute, the plaintiff's now institute this Application seeking review of this Court's, of 13th July, 2011 by entering of Judgment in their favour for a specific sum of Kshs.46,569,184.14 to make it capable of execution. This figure is arrived at on the basis of copies of the Plaintiff's' payslips and calculations based on Personal Circular Nos. 2B of 2001, and 1B of 2003 as well as 10% increment awarded in 2004 and 2005 (Exhibited as "DNN5").
6. In the premises, the court is urged to allow the Application to bring an end to this tussle that has been pending for over 19 years.
7. The Defendants did not file a reply despite evidence of service of the Application upon their Advocates. No submissions have been filed on the Appeal.
8. Section 80 of the *Civil Procedure Act* and Order 45 of the Civil Procedure Rules 2010 made thereunder govern an Application such as the instant one for review of court Judgments, decrees and orders in instances where an Appeal is allowed but none has been lodged, or Appeal has been determined. Orders 45 of the Rules supra provides that a Judgment decree of order may be reviewed on the grounds of an error or mistake on the face of the record; or on account of discovery of evidence that with due diligence could not be presented earlier; or for any other sufficient cause.
9. The Plaintiffs herein seem to crave review of the court's Judgment of 13th July, 2011 and resultant decree on account of a mistake or error on the face of the record. As pointed out by the Court of Appeal, the error or mistake apparent in the Judgment is omission to state a specific sum awarded to the plaintiffs.
10. In *Nyamogo & Nyamogo Advocates –Vs- Kago (2001) eKLR* among many other judicial determinations, it was observed that where a court's Judgment, decree or order is sought to be reviewed on the basis of a mistake or error apparent on the face of the record, such mistake or error must be self-evident and not require extensive or elaborate argument to establish. The mistake or error must therefore be such that it stares one in the face.
11. In the instant matter, the Court of Appeal itself has pointed out the mistake or error in the Judgment of 13th July, 2011. Although the Judgment does not specify the sum awarded to the Plaintiffs in the Liquidated Claim, there is a clear pointer as to what the court had in mind. The Defendants have not responded to the Plaintiffs' position that the sum the court was awarding them is Kshs.46,569,184.14. It is therefore deemed that the Defendants do not oppose the Plaintiffs' understanding of the court's Judgment dated 13th July 2011.
12. In the result, the Application is allowed in terms of prayers 2 and 3 of the Notice of Motion dated 19th June, 2025.
13. Ruling accordingly.

.....
J. M. NANG'EA

JUDGE



RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 5TH DAY OF DECEMBER, 2025.

In the presence of:

The Plaintiffs' Advocate, Mr. Ochieng for Ms. Awuor

The Defendant's Advocate, Absent

Court Assistant, Justine.

.....

J. M. NANG'EA

JUDGE

