

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS
COURT AT NAIROBI
CAUSE NO. E260 OF 2025**

GORDON DUYA OKAL **1st**
CLAIMANT
WILLIAM MASAKU **2nd**
CLAIMANT
DOMINIC MUTUKU MULI **3rd**
CLAIMANT

v

**THE LUNCBOWL NETWORK
FOUNDATION KENYA LTD**
RESPONDENT
ACUITY CAPITAL LTD **2nd**
RESPONDENT

EMPLOYMENT AND LABOUR RELATIONS COURT



RULING

1. The Claimants sued the Respondents on 1 April 2025, asserting unfair termination of employment on the ground of redundancy.
2. On the same day, the Claimants filed a Motion seeking orders

- (i) spent
- (ii) spent
- (iii) spent
- (iv) spent
- (v) Pending the hearing and determination of this suit, this

Honourable Court be pleased to issue an order restraining the Respondents, their agents, representatives or any other persons acting on their behalf from disposing of, transferring or disposing of their assets in a manner that would defeat the satisfaction of any decree that may be issued in this case.

(vi) Pending the hearing and determination of this suit, this Honourable Court be pleased to issue an order preserving the

Respondents' bank accounts and properties within this jurisdiction.

(vii) In the alternative, pending the hearing and determination of this suit, the Respondents be ordered to issue a bank

guarantee for the claim sum, pending the hearing and determination of this suit, being Kshs 2,796,044.07.

(viii) THAT this Honourable Court grants any further orders it deems just and expedient in the circumstances.

(ix) Costs of this application be provided for.

3. The grounds in support of the Motion were that the Claimants were employees of the Respondents as teachers at Good Samaritan School; the Respondents were in the process of closing the school, the Claimants positions had been declared redundant but not paid terminal dues; the Respondents' directors were foreigners and there was a risk of transferring assets and funds beyond the Court's jurisdiction; the 1st Respondent had indicated it was under financial strain and

that the Claimants stood to suffer irreparable harm if the orders sought were not granted.

4. The Court directed the Claimants to serve the Respondents.

5. When the Motion was called out on 19 May 2025, it turned out that the Respondents had not filed a reply by 6 June 2025.

6. The Court therefore ordered the Respondents to provide a bank guarantee ahead of further directions on 11 June 2025.

7. The Respondents filed a replying affidavit in opposition to the Motion on 27 May 2025. It was deponed in the affidavit that the 2nd Respondent was not involved in the day to day operations of the 1st Respondent but was merely a donor; the 1st Respondent depended entirely on donors for funding; the directors of the 1st Respondent had stayed in the country for over a decade and were not a flight risk; the 1st Respondent was under financial strain as one donor had pulled out;

the 1st Respondent was a charity and did not retain any funds in its bank accounts and could only offer a bank guarantee, and that the Motion was premature, speculative and without merit.

8. On the same day, the Respondents filed a Motion stating:

(i) spent

(ii) THAT this Honourable Court be pleased to set aside, vary or review its order issued on 19th May 2025 directing the Respondents to deposit a bank guarantee of Kshs. 2,000,000

pending the hearing and determination of this suit.

(iii) THAT in the alternative to Prayer 2 above, this Honourable Court be pleased to allow the 1st Respondent to deposit its school bus together with the logbook as

a substitute guarantee in place of the bank guarantee.

(iv) THAT this Honourable Court be pleased to deem the said school bus as sufficient security for the due performance of any decree that may be issued herein.

(v) THAT costs of this application be in the cause.

9. This Motion is the subject of this Ruling.

10. The primary grounds in support of the Motion were that the 1st Respondent was a charity entirely reliant on donor funding; any funds received were for specific projects; the 1st Respondent was thus unable to comply with the order to provide a bank guarantee and that instead of a bank guarantee, the Respondents were ready to provide a school bus as security.

11. The Claimants filed a replying affidavit and Grounds of Opposition to the Respondents

Motion on 10 June 2025, contending that the Respondents had contacted the Claimants to explore an out of court settlement; the Respondents had not produced any documentary evidence to support their case and were in contempt of court.

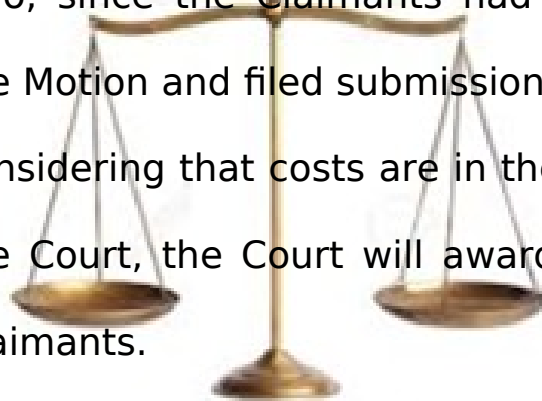
12. The Respondents filed submissions in respect to their Motion on 1 December 2025. The

Respondents submitted that though the Court had a discretion under Order 39 Rule 2 of the Civil Procedure Rules to require security, the discretion ought to be exercised judicially (case law referred to).

13. The Respondents further urged that under the obtaining circumstances, they could not provide a bank guarantee and that a substitute in the form of the bus would suffice.

14. The Claimants filed submissions in response to the Respondents' Motion on 11 December 2025.

15. On 15 January 2026, the Respondents filed a Notice to Withdraw the Motion.
16. The Court has considered the Motions on record, affidavits and submissions and the Notice to Withdraw the Motion and makes the following determinations.
17. One, the Respondents' Motion to Withdraw the Respondents' Motion is accepted.
18. Two, since the Claimants had responded to the Motion and filed submissions thereto, and considering that costs are in the discretion of the Court, the Court will award costs to the Claimants.
19. The delivery of this Ruling has been brought forward with notice to the parties.



Orders

20. The Respondents' Motion dated 22 May 2025 and filed in Court on 27 May 2025 is marked as withdrawn with costs to the Claimants.

Delivered virtually, dated and signed in Nairobi on this 23rd day of January 2026.

**Radido Stephen, MCI Arb
Judge**

Appearances

For Claimants

Kaaya Memba &
Co. Advocates

For Respondents

Etemesi EOE &
Co. Advocates

Court Assistant

Wangu

EMPLOYMENT AND LABOUR RELATIONS COURT



NAIROBI