



REPUBLIC OF KENYA



**KENYA LAW**  
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**Otieno & 2 others v Union of Kenya Civil Servants & 3 others (Petition E027 of 2023) [2025] KEELRC 282 (KLR) (5 February 2025) (Ruling)**

Neutral citation: [2025] KEELRC 282 (KLR)

**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU**  
**PETITION E027 OF 2023**  
**NZIOKI WA MAKAU, J**  
**FEBRUARY 5, 2025**

**BETWEEN**

**BERNARD OTIENO ..... 1<sup>ST</sup> APPLICANT**  
**MALIC M. SHANGUYA ..... 2<sup>ND</sup> APPLICANT**  
**PATRICK ODERO & 35 OTHERS ..... 3<sup>RD</sup> APPLICANT**

**AND**

**UNION OF KENYA CIVIL SERVANTS ..... 1<sup>ST</sup> RESPONDENT**  
**TOM MBOYA ODEGE ..... 2<sup>ND</sup> RESPONDENT**  
**ALISOKOR MOHAMUD ISHAQ ..... 3<sup>RD</sup> RESPONDENT**  
**ABDULMALIK A. ABDALLA ..... 4<sup>TH</sup> RESPONDENT**

**RULING**

1. The issue that is squarely before Court is the matter of freezing of the Union Accounts. This has been contested by both the Union and the other Respondents herein. It is asserted that the same is connected to the willful disobedience of court order in Petition E027 of 2023. The Petitioners/Applicants assert the accounts should remain frozen as there has been failure to comply with court orders.
2. Section 39 of the *Labour Relations Act* provides the manner and mode for application of trade union funds. One of the purposes is payment of salaries, allowances and expenses of officials, payout of expenses for the administration of the trade union, payment of fees and subscriptions et cetera. In the matter before the Court, the Union accounts have been frozen for the large part of late December 2024, January 2025 and now the first week of February 2025. The freeze was to stop payment of anything other than these sums permitted under the provision of section 39. Whereas the Petitioners seem to suggest the 1<sup>st</sup> Respondent has not operated as directed by Radido J. in his judgment relating to Petition E027 of 2023, it is my finding that the access to funds of the Union by the Union officials comprised



in the 1<sup>st</sup> Respondent will not jeopardize any action by the Petitioners against any alleged contemnor of the clear orders of Radido J. in Petition E027 of 2023. Freezing of funds is not res judicata.

3. The Court thus will vacate the freeze order granted on 10<sup>th</sup> December 2024. Garnishees are released.
4. Regarding the issue of contempt, parties are to file skeletal submissions 3 pages – within 14 days of today. Mention on 19<sup>th</sup> February 2025 for further directions on the application for contempt.
5. Parties be at liberty to apply.

It is so ordered.

**DATED AND DELIVERED AT KISUMU THIS 5<sup>TH</sup> DAY OF FEBRUARY 2025**

**Nzioki wa Makau, MCI Arb.**

**JUDGE**

