



**Kawira v Yetu Sacco Society Limited (Cause E084 of 2024)
[2025] KEELRC 2318 (KLR) (31 July 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2318 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E084 OF 2024**

**SC RUTTO, J
JULY 31, 2025**

BETWEEN

DOREEN KAWIRA CLAIMANT

AND

YETU SACCO SOCIETY LIMITED RESPONDENT

RULING

1. In a judgment delivered on 28th March 2025, the Court made an order directing the Respondent to release to the Claimant her terminal dues and Certificate of Service within 30 days from the date of the judgment.
2. Seemingly, the matter did not settle with the delivery of the judgment as the Claimant/Applicant moved the Court vide the instant Notice of Motion dated 7th May 2025, seeking the following orders:
 - a. Spent
 - b. That the Respondent and its Executive Officers the CEO Mr. Dennis Mwiti Kirimi, along with the Human Resource Manager Ms. Jacqueline Wambui, the Deputy CEO Finance & Administration Mr. Amos Mutugi Mwebia and the Accountant Mr. Nicholas Mutuma, the contemnors herein be cited for contempt of the orders of this Honourable Court issued in the judgment dated 28th March 2025 by Hon. Justice Stella Ruto.
 - c. That upon citation for contempt the aforesaid officers of the Respondent, that is Mr. Dennis Mwiti Kirimi, along with the Human Resource Manager Ms. Jacqueline Wambui, the Deputy CEO Finance & Administration Mr. Amos Mutugi Mwebia and the Accountant Mr. Nicholas Mutuma, the contemnors herein be sanctioned by committal to Civil Jail for Six (6) Months, Sequestration of property, payment of a fine and/or further order as this Honourable Court may deem fit.



- d. That the Inspector General of Police be ordered to enforce and/or supervise the enforcement of the orders of this Honourable Court granted herein.
 - e. That the Respondents be ordered to fully comply with the judgment of the Court dated 28th March 2025 by releasing to the Applicant's advocates the terminal benefits due to the Applicant as tabulated in the schedule provided by the Respondents.
 - f. That costs of this Application be provided for.
3. The Application is supported by the Affidavit sworn on 7th May 2025 by Doreen Kawira, the Claimant herein. Grounds in support of the Motion are that the Respondent tabulated the Claimant's terminal dues in documents submitted to the Court, with the said dues totaling Kshs.1,509,456.00.
 4. That in an act of deliberate contempt of court, the Respondent has refused or failed to release the said amount to the Claimant herein despite the very clear judgment of the Court.
 5. Despite several reminders, the Respondent, through its Executive officers, remains adamant that it will not release the Claimant's terminal dues to her and has instead concocted a scheme where it deposited the amount in an account solely controlled and accessed by the Respondent in an attempt to circumvent the orders of the Honourable Court.
 6. The Claimant deposes in her Supporting Affidavit that under her instructions, her Advocates on record wrote to the Respondent instructing them to release her terminal dues to a specified bank account held and controlled by her Advocates, the reason being that the Respondent locked her out of her accounts held with the Sacco and she is therefore unable to access the said accounts.
 7. The Claimant further avers that the Respondent refused to comply with the said instructions and instead wrote an email to her advocates on 11th April 2025 purporting to have released the funds to the account she had with them.
 8. The Claimant contends that the Respondent also purported to have recovered a loan of Kshs 1,286,270.40 from the said terminal benefits, even though the said loan is subject to an ongoing court case, being Milimani Commercial Suit E102 of 2025.
 9. According to the Claimant, it is evident that the Respondent, through its officers, conspired to act in contempt and defiance of the judgment dated 28th March 2025 by purporting to release the funds into an account that is inaccessible to her and which is in their sole custody.
 10. She is reliably informed that the officers of the Respondent, including the CEO and the Human Resources Manager, have sworn that she will not see a single shilling from the money the Respondent owes her since she embarrassed them by taking them to Court.
 11. The Respondent opposed the Application through a Replying Affidavit sworn on 7th June 2025 by Jacqueline Wambui, who describes himself as the Respondent's Human Resources Manager.
 12. Ms. Wambui deposes that the Applicant has lumped up the CEO Mr. Dennis Mwititi, Deputy CEO Finance and Administration, Mr. Amos Mutugi Mwebia, the Accountant, Mr. Nicholas Mutuma and herself without being specific in the allegations made against each of them, therefore denying them the opportunity to be heard by this Honourable Court.
 13. According to Ms. Wambui, she computed the terminal benefits, which were checked by the accountant, Mr. Nicholas Mutuma, verified by Head of Internal Audit, Ms. Sarah Kaari, and approved by Mr. Dennis Mwititi.



14. She further avers that it was the Court's finding that the employment relationship between the Applicant and the Respondent ceased to exist upon the Applicant tendering her resignation letter dated 13th September 2023. Therefore, the Applicant's employment period was between 1st June 2013 to 13th September 2023.
15. That pursuant to the judgment, the Respondent calculated the Applicant's terminal dues from the time of employment to the time of her resignation, amounting to Kshs. 983,688.39.
16. Ms. Wambui further deposes that during the Applicant's employment period with the Respondent, she was advanced a loan facility by the Respondent and she offered as security for the said loan parcel of land, Title Number Ruiru/Ruiru East Block 2/10757.
17. One of the terms of the said loans was that the Applicant would service the loan facility from her salary. The Applicant however, resigned from employment on 13th September 2023, resulting in default in payment of the said loan facility according to the loan agreement.
18. That the Respondent's right of sale crystallized, necessitating the issuance to the Applicant of all the legal notices. In a bid to stop the Respondent from realizing its right of sale, the Applicant filed an application in Milimani Civil Suit No. E102 of 2025.
19. According to Ms. Wambui, the Applicant referred to the Milimani ELRC Cause No. E084 of 2024 under paragraph 11 of her sworn affidavit and stated, "This fact is important in the suit because when I realized I had been terminated, my intention was to clear my loan balance using my terminal dues which the defendant has since illegally withheld".
20. Ms. Wambui contends that the Applicant cannot approbate and reprobate her statement in the sworn affidavit and accuse the Respondent of contempt of court on account of depositing her terminal dues in the account she holds with the Respondent.
21. Ms. Wambui further avers that the terminal dues were credited to the Claimant's Account No. XXXXXXXX and her liabilities amounting to Kshs. 1,286,270.40 were recovered from the terminal dues.
22. That the Claimant's advocate had written a letter dated 2nd April 2025, demanding the Applicant's terminal benefits and indicated that the amount demanded is as tabulated by the Respondent in the court filings.
23. According to Ms. Wambui, the Respondent herein paid to the Claimant's account Kshs. 983,688.39 as ordered in the judgment being her terminal dues from 1st June 2013 to 13th September 2023 when she tendered her resignation letter.
24. That the Claimant's advocate, in the letter dated 2nd April 2025, further demanded for costs of the suit amounting to Kshs.675,000/- without attaching his bill of costs. That further, the Applicant's Advocate sent a bill of costs to the Respondent's advocate amounting to Kshs.783,000/- which was exorbitant, exaggerated and not drawn to scale. The Bill of costs was vehemently opposed by the Respondent's advocate who advised the Applicant's advocate file his Bill in court for taxation.
25. That on 14th May 2025, the Applicant's advocate further sent to the Respondent's advocate via email a party and party Bill of costs duly filed amounting to Kshs. 977,880/-. The Respondent's advocate filed an objection to the Party and Party Bill of Costs as it was exorbitant and exaggerated.



26. According to Ms. Wambui, it is evident that the costs of the suit payable to the Applicant are yet to be determined thus she is mistaken to cite the Respondent in the contempt of court proceedings for allegedly withholding any amount awarded to her in the judgment delivered on 28th March 2025.
27. That no basis has been given for the contention that the Respondent has barred the Applicant from accessing the account she holds with Yetu Sacco.
28. Ms. Wambui further avers that together with the CEO Mr. Dennis Mwitwi, Deputy CEO Finance and Administration, Mr. Amos Mutugi Mwebia, the Accountant, Mr. Nicholas Mutuma, they risk deprivation of personal liberty through incarceration in civil jail.

Analysis and Determination

29. The Court has carefully considered the Notice of Motion as well as the Respondent's Replying Affidavit and it is evident that the singular issue falling for determination by the Court is whether the Respondent is in breach of the orders of this Court issued on 28th March 2025.
30. The crux of the Claimant's Motion is that the Respondent, through its officers, conspired to act in contempt and defiance of the judgment dated 28th March 2025 by purporting to release her terminal dues into an account that is inaccessible to her and which is in the Respondent's sole custody.
31. The Respondent has refuted the Claimant's position and has averred that it computed the Claimant's terminal dues as per the judgment of the Court and the said terminal dues were credited to the Claimant's Account No. XXXXXXXX and her liabilities amounting to Kshs. 1,286,270.40 recovered from the terminal dues.
32. In view of the above rival arguments, the question that must be answered is whether the Respondent is in breach of the orders issued by the Court on 28th March 2025.
33. As stated herein, the Court in its Judgment delivered on 28th March 2023, directed the Respondent to release to the Claimant her terminal dues and Certificate of Service within 30 days from the date of the Judgment.
34. It is an undisputed fact that the Respondent was aware and had knowledge of the terms of the order hence, the issue to be determined is whether there was compliance with the said court order.
35. What can be deduced from the Respondent's Replying Affidavit is that it computed the Claimant's dues and recovered the sum of Kshs. 1,286,270.40, which it termed as her outstanding liabilities. In this regard, the Respondent made reference to a loan facility advanced to the Claimant during her employment and which was secured by a parcel of land, Title Number Ruiru/Ruiru East Block 2/10757.
36. According to the Respondent, the loan was in arrears following the Claimant's resignation and its right of sale crystallized, necessitating the issuance of all the legal notices to the Claimant.
37. That in a bid to stop the Respondent from realizing its right of sale, the Claimant filed an application in Milimani Civil Suit No. E102 of 2025, in which she referred to the suit herein and stated in her sworn Affidavit that "her intention was to clear the loan balance using her terminal dues which the defendant had since illegally withheld".
38. It is apparent that in recovering the outstanding loan amount from the Claimant's terminal dues, the Respondent relied on her assertion in the Affidavit filed in Milimani Civil Suit No. E102 of 2025.



39. What is discernible to the Court is that the Respondent has not paid the Claimant's terminal dues, as it took the liberty to utilize the same to settle her outstanding loan obligations. Clearly, this was without the Claimant's express consent.
40. It is worth pointing out that the dispute relating to the loan advanced to the Claimant by the Respondent was not the subject matter of the proceedings in this suit. Therefore, there was no finding or order in that respect.
41. It is also apparent that the said loan facility is the subject of an ongoing dispute in Milimani Civil Suit No. E102 of 2025. As such, the same is yet to be heard and determined.
42. The mere expression by the Claimant of her intention to utilize the terminal dues to clear the loan balance did not constitute an instruction to the Respondent to utilize the Claimant's terminal dues for offsetting her liabilities. This is bearing in mind that the Respondent is still holding the Claimant's title document as security for the said loan. Therefore, the Respondent had no basis for applying the Claimant's terminal dues as it did.
43. As it is, the aspect of the Claimant's terminal dues and the outstanding loan facility are two different issues. Therefore, the Court finds that the Respondent did not act prudently in applying the Claimant's terminal dues for purposes of offsetting her outstanding loan obligations.
44. In light of the foregoing, it becomes apparent that the Respondent has not complied with the order of this Court in that it has failed to pay the Claimant's terminal dues as directed.
45. Consequently, the Respondent is in breach of the order issued by this Court on 28th March 2025 with respect to payment of the Claimant's terminal dues.
46. It has been said times without number that the duty to obey the law by all individuals and institutions is paramount in the maintenance of the rule of law, good order and the due administration of justice.
47. The Court in *Econet Wireless Kenya Limited v Minister for Information & Communication of Kenya & another* [2005] KEHC 3180 (KLR) underscored the importance of compliance with court orders in the maintenance of the rule of law in the following terms;
- “It is essential for the maintenance of the rule of law and order that the authority and the dignity of our courts are upheld at all times. The court will not condone deliberate disobedience of its orders and will not shy away from its responsibility to deal firmly with proved contemnors. It is the plain and unqualified obligation of every person against or in respect of whom, an order is made by the court of competent jurisdiction to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or void.”
48. And further, in *Hadkinson v Hadkinson*, (1952) ALL ER 567, it was held that:
- “It is the plain and unqualified obligation of every person against, or in respect of, whom an order is made by a court of competent jurisdiction to obey it unless and until that order is discharged...As long as it exists it must not be disobeyed.”
49. In a nutshell, the Respondent having knowledge of the order of this Court to pay the Claimant's terminal dues, was bound to obey the same unless the order was discharged. Failure to do so amounted to a breach of the said order.



Orders

50. Having found that the Respondent has not complied with the order of the court issued on 28th March 2025, the Court makes the following orders:
- a. The Respondent is hereby directed to pay the Claimant her terminal dues within 30 days from the date of this Ruling.
 - b. In default of compliance, a Notice to Show Cause shall issue against the Respondent's CEO Mr. Dennis Mwiti, why he should not be cited for contempt of court.
 - c. The Claimant will have the costs of this Application.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 31ST DAY OF JULY 2025.

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STELLA RUTTO

JUDGE

In the presence of:

For the Claimant/Applicant Mr. Muriuki

For the Respondent Ms. Maina

Court assistant Millicent

Order

In view of the declaration of measures restricting court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open court. In permitting this course, this court had been guided by Article 159(2)(d) of *the Constitution* which requires the court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the *Civil Procedure Act* (Chapter 21 of the Laws of Kenya) which impose on this court the duty of the court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

