



Muli & 29 others v Kenya Planters Co-operative Union Limited (Cause 1224 of 2017) [2024] KEELRC 13330 (KLR) (5 December 2024) (Judgment)

Neutral citation: [2024] KEELRC 13330 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1224 OF 2017
L NDOLO, J
DECEMBER 5, 2024**

BETWEEN

- JAMES PETER MULI 1ST CLAIMANT**
- JENNIFER ANGAINE 2ND CLAIMANT**
- PETER K MWIRIGI 3RD CLAIMANT**
- JACINTA W MURAYA 4TH CLAIMANT**
- HENRY K NGEKENYA 5TH CLAIMANT**
- JOHN KINYUA KARIRA 6TH CLAIMANT**
- PATRICK W OBURA 7TH CLAIMANT**
- LUCY W NGURU 8TH CLAIMANT**
- LYDIA GACHERI K 9TH CLAIMANT**
- ROSEMARY M KITHINJI 10TH CLAIMANT**
- DAVID K WAIRAGU 11TH CLAIMANT**
- MICHAEL M MARETE 12TH CLAIMANT**
- CHURU K ELI 13TH CLAIMANT**
- MUCHUNGU M JOHN 14TH CLAIMANT**
- SALESIO N MBOGO 15TH CLAIMANT**
- N. NYAGA ALFRED 16TH CLAIMANT**
- ANDREW M. NDUNG’U 17TH CLAIMANT**
- NGAARA PATRICK 18TH CLAIMANT**
- NICHOLAS M MUTETI 19TH CLAIMANT**



HENRY M KISWILI	20 TH CLAIMANT
STANLEY M OLE KERU	21 ST CLAIMANT
PETER I MWATHI	22 ND CLAIMANT
DAVIS M GICHOBBI	23 RD CLAIMANT
HUDSON W WAFULA	24 TH CLAIMANT
C MUTHONI NJAGI	25 TH CLAIMANT
WINNIFRED W. KARANU	26 TH CLAIMANT
FRED R KISUYA	27 TH CLAIMANT
IRENE N KATUA	28 TH CLAIMANT
FAITH G MWANGI	29 TH CLAIMANT
ANTHONY M NGUGI	30 TH CLAIMANT

AND

KENYA PLANTERS CO-OPERATIVE UNION LIMITED RESPONDENT

JUDGMENT

Introduction

1. The Claimants in this case are all former employees of the Respondent. By their joint Memorandum of Claim dated 29th June 2017, they state that their employment was terminated on account of redundancy, following the placement of the Respondent under receivership. They therefore pursue payment of their terminal dues. The Respondent filed a Response dated 3rd October 2017.
2. The matter went to full trial where the 1st Claimant, James Peter Muli testified on his own behalf and on behalf of his co-claimants. The Respondent chose not to call any witness. Both sides filed written submissions.

The Claimants' Case

3. The Claimants state that they were employees of the Respondent, within the management category, having been employed on diverse dates under respective letters of appointment and contracts.
4. They claim that on 19th October 2019, the Respondent was placed under receivership, upon which they were retrenched by the Receiver Manager. They add that the receivership was lifted on 4th July 2014 paving way for the Respondent to resume normal operations. The Claimants reckon this as the time when their cause of action arose.
5. The Claimants claim against the Respondent is for payment of terminal dues being, severance pay, notice pay, leave pay, unremitted deductions and unpaid salaries for October, November and December 2009.
6. The Claimants also claim general damages for breach and violation of their constitutional rights.



The Respondent's Case

7. In its Response dated 3rd October 2017, the Respondent denies the Claimants' respective claims and states that there are no known dues owed to the Claimants. The Respondent further denies having violated the Claimants' rights.
8. The Respondent maintains that the Claimants' claims as tabulated are unfounded.

Findings and Determination

9. The Claimants' claims are for terminal dues which fall within the realm of special damages, and the standard of proof under this head is well established. Special damages must not only be specifically pleaded, but also strictly proved. This position has been affirmed in many cases of all genres.
10. In *Hahn v Singh* [1985] KLR 716 and *Jackson K Kiptoo v Attorney General* [2009] KLR 675, the Court of Appeal held that the degree of certainty and particularity of proof required is dependent on the circumstances and nature of the acts complained of.
11. In employment matters, terminal dues are tabulated on the basis of monthly earnings and provisions within the appointing instruments. A claimant pursuing such a claim must therefore plead and prove these details with absolute precision.
12. None of the Claimants met this threshold and their respective claims therefore fail and are dismissed with an order that each party will bear their own costs.
13. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 5TH DAY OF DECEMBER 2024

LINNET NDOLO

JUDGE

Appearance:

Mr. Kariuki h/b Mr. Koceyo for the Claimants

Ms. Aradi for the Respondent

