



**Kenya Union of Commercial Food and Allied Workers v Kenya Meat Commission
(Cause 1608 of 2018) [2023] KEELRC 668 (KLR) (17 March 2023) (Ruling)**

Neutral citation: [2023] KEELRC 668 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1608 OF 2018
AN MWAURE, J
MARCH 17, 2023**

BETWEEN
**KENYA UNION OF COMMERCIAL FOOD AND ALLIED
WORKERS CLAIMANT**
AND
KENYA MEAT COMMISSION RESPONDENT

RULING

1. The applicant has filed its application dated February 17, 2023.
2. The prayers therein are as hereunder:
 - i. Prayer 1 spent.
 - ii. Pending hearing and determination of this, this honourable court do issue an order restraining the respondent from evicting any of the sixty nine grievants from the commission houses until all installments are paid by July 1, 2023.
 - iii. Pending hearing and determination of this application, an order do issue directing the respondent to withdraw the letters dated Febraury 13, 2023 addressed to eight of the sixty nine grievants.
 - iv. Costs be in favour of the applicant
 - v. The honorable court be pleased to grant any other order deemed fit and just to meet the end of justice.
3. The background of this application emanates from a judgment that was delivered by this court on June 5, 2020, where grievants were awarded benefits.



4. The total amounts awarded were kshs 44,533,304.93. The respondent being unable to pay the amount execution proceedings commenced.
5. That on February 15, 2023 a consent was recorded whereby it was agreed that respondent had already paid kshs 5.1 million and balance was to be paid in five equal instalments beginning on March 1, 2023.
6. The applicant intends to pay all the grievants in proportions starting with the second instalment which was paid on March 1, 2023 (now past).
7. The grievants lived in commission's houses and on February 15, 2023, eight of the sixty nine grievants received letters from the commission to go collect their payments and vacate the houses within seven days or be forced to by February 20, 2023.
8. The applicants state they were never consulted and so such action is draconian and made in bad faith since the grievants have not been paid all their dues. The applicant therefore prays to have the application granted and respondents be restrained from evicting the grievants as per their aforementioned eviction notice.
9. The respondent filed its grounds of opposition and referred to the application as defective and incompetent and prayed the same be struck off.
10. The respondent averment is that the agreed amount being kshs 44,000,000/- was arrived at after extensive meetings and further failure to pay the entire amount on time is because the amount is usually paid by the National Treasury.
11. They aver they are now adhering to the court order and so there is no inconvenience caused to any party.
12. The respondent therefore prays that the application be dismissed as applicant has not shown they have a high probability of success.

Determination

13. The court has carefully considered the application by the claimant and as well the respondents grounds of opposition. The court should mention it urged the parties to agree on how to settle the judgment sum and how and when the grievants would vacate the premises of the respondents.
14. At least on the issue of how to settle the judgment sum the parties agreed the amount was to be paid in five equal instalments less the 5.1 million which had already been paid in February 2023. The starting date was March 1, 2023 for the second instalment.
15. Now what is in contention is the date the grievants should vacate the respondent's premises to enable other current employees to move in.
16. The court has tried to balance the interests of the respondents and the applicants and to ensure justice is meted across board.
17. The court has noted the second installment was paid by March 1, 2023 less the money erroneously deducted as statutory deductions. A further instalment is due on April 1, 2023 and another on May 1, 2023. By then there will be two installments that will be outstanding. The statutory deductions should be paid when paying the April 2023 installment.
18. It is quite clear that once the May installment is paid it will be fair for the grievants to vacate the premises by May 5, 2023. That will give sufficient time for the grievants to look for other houses and move out. The court therefore orders the prayers 2 and 3 of the notice of motion dated February 17, 2023 be



granted to the extent eviction will not happen and instead the grievants are ordered to vacate the houses by May 5, 2023 failure of which eviction will then take place seven days from that date.

19. Each party will meet the costs of the application.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 17TH DAY OF MARCH 2023.

ANNA NGIBUINI MWAURE

JUDGE

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 has 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 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.

A signed copy will be availed to each party upon payment of Court fees.

