Isindu & 2 others v West Kenya Sugar Company Limited (Employment and Labour Relations Claim 19 of 2017) [2023] KEELRC 1090 (KLR) (27 April 2023) (Judgment)

Neutral citation: [2023] KEELRC 1090 (KLR)

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT BUNGOMA

EMPLOYMENT AND LABOUR RELATIONS CLAIM 19 OF 2017

JW KELI, J

APRIL 27, 2023

(PREVIOUSLY KISUMU ELRC CLAIM NOS. 106/16,107/16&105/16)

BETWEEN

KENNEDY KANGAYA ISINDU ..... 1ST CLAIMANT

DENNIS LICHUNGU MUKABI ..... 2ND CLAIMANT

POLYCARP SAMSON ODHIAMBO ..... 3RD CLAIMANT

AND

WEST KENYA SUGAR COMPANY LIMITED ..... DEFENDANT

JUDGMENT

1. The claimants *vide* filed claims Kisumu ELRC claim Nos 106/16,107/16&105/16 consolidated to this suit on transfer to Bungoma all filed on the May 3, 2016 together with bundle of documents sought for declaration that the termination of their employment contravened the provisions of the *Constitution* articles 41,47 and 50 and sought for redress, order of unconditional reinstatement without loss of benefits and in the alternative award of compensation for unfair, unlawful and wrongful termination of employment in special and general damages to the tune of Kshs 687,200 for the 1st claimant, Kshs 683,000 for the 2nd claimant and Kshs 628,600 for the 3rd claimant, general damages for discrimination, failure to provide safe working condition and for injuries suffered in the course of their employment.

2. The 3 claimants filed witness statements which they adopted as their evidence in chief during *viva voce* hearing and produced their documents. The consolidated bundle of documents is dated March 30, 2022 was filed on the May 18, 2022.

3. The claims were opposed by the respondent who filed memorandum of defence dated August 1, 2016 against each of the claims and filed witness statements of Duncan Abwao(the Human Resources Manager), Edwin Achayo(Kabras Rugby team coach), Antony Ogot (Kabras Rugby team Manager),

Maxwell Adaka (Kabras Rugby team captain) and Jackson Amondo(Kabras Rugby team bus driver). The respondent filed list and bundle of documents as consolidated bundle dated June 9, 2022 filed on the June 10, 2022.

Hearing

4. The claimant's case was heard by the court on the July 6, 2022 with the 3 claimants testifying on oath as witnesses of fact in their case and they were cross-examined by counsel for defence Mr Andiwo. The claimants adopted as evidence in chief their witness statements and produced their documents under the claimants' consolidated bundle dated March 30, 2022 was filed on the May 18, 2022.

5. The respondent's case was heard on the October 4, 2022 with 3 witnesses fact testifying on oath, adopting their written statements as evidence in chief and being cross-examined by counsel for the claimants Mr Shifwoka.

Claimant's Case In Summary

6. The claimants' case was that they had been engaged as management trainee employees for two years relying on 1st paragraph of similar letters of employment, had each served for a period of more than 13 months prior to their respective termination of the employment. That there was no hearing prior to the termination or justified reasons for the termination. That they had executed 5 year compulsory service period bond with the respondent to serve and expected to be placed on full time employment after service as per the agreemnt. That they were issued with notice to show cause to which they responded and stated the allegations were false. That the termination was orchestrated by the respondents representatives and relied on email communication (page 80-81 of the claimants' consolidated bundle of documents). That the allegations levelled against them were unsubstantiated and there was no performance evaluation. That they were exposed to injuries playing rugby and were discriminated against for being not availed medical insurance facility which they came to discover employees at their level enjoyed.

Defence Case

7. The defendant's case as captured in the witness statements of DW1,DW2 and DW3 to effect that the respondents had been engaged as management trainees on one year contract beginning February 20, 2015 and expiring on the January 31, 2016, that the claimants were to undergo continuous assessments including trainings and had to sign training agreement binding them to work for the respondent for 5 years on successful completion of the management trainee programme and be absorbed as permanent employees of the respondent. That all the claimants signed the compulsory service period bond agreement which provided for one year contract of employment commencing February 2015. That the claimants on successful completion of the management training were to serve 5 years. That the claimants failed to attain set objectives and were reported to have been intoxicated and manhandling of fellow employees including the bus driver(by the 1stclaimant), failed to attend trainings and lost their position in Kabras rugby team(2nd claimant) and incited fellow employees to abscond trainings and feigned injuries so as not to play in the Kabras rugby team(3rd claimant)hence their performance was unsatisfactory and the respondent decided not to renew their contracts on expiry. That the claimants were paid all outstanding dues including accrued leave days and one month notice.

Written Submissions

8. After the close of the defence case the court issued directions on filing of written submissions. The parties complied. The claimants' written submissions drawn by Nyikuli, Shifwoka & Company

Advocates were dated February 28, 2023 and received in court on the March 1, 2023. The defence written submissions drawn by O&M Law LLP Advocates were dated February 27, 2023 and received in court on the February 28, 2023.

Determination

Issues for determination

9. The claimants in their written submissions addressed substantive and procedural fairness, discrimination and whether the claimants were entitled to reliefs sought.

10. The respondent in their written submissions identified the following as issues for determination:-

    a. What was the nature of the claimants' employment contracts?

    b. Whether the expiry of the claimants' contracts of employment amounted to unfair termination of employment

    c. Whether the claimants' are entitled to the prayers sought.

    d. Who bears the costs of the suit.

11. The court having heard the case, read the pleadings and considered the issues identified by the parties for determination was of the considered opinion that the issues placed before it for consideration in determination of the dispute by the parties were as follows:-

    a. What was the nature of the claimants' employment contracts?

    b. Whether there was proof of discrimination

    c. Whether there was unlawful and unfair termination of employment of the claimants

    d. Whether the claimants are entitled to the reliefs sought.

    Issue 1-What was the nature of the claimants' employment contracts?

The Claimants' Position

12. The claimants submit they all held management trainee contracts for the period of 2 years and relied on clause 1 of the employment contracts.

    The letters of employment for the 3 claimants were similar in content and read in part:-

    Clause 1 – 'this letter confirms your employment on a two year fixed term of employment in the position of management trainee of West Kenya sugar company limited.."

    Clause 2 – 'duration of contract – your contract period shall be one (1) year shall commence on February 20 2015 and expire on January 31 2016. ..."(see page 26 of 63 of the consolidated bundle of the respondent)

The Defence Position

13. The respondent submits that further to the employment contracts the claimants signed a compulsory service bond which provided thus for every claimant- ' the company had offered and the trainee has accepted a scheme under which the trainee will be provided management , theoretical , operational and practical training for a duration of one(1) year commencing February 2015 to January 31, 2016" (see page 29 of 63 of the consolidated bundle of the respondent) The respondent submits that though

clause 1 of the employment contract was ambiguous it was clear that each claimant – was serving 1 year fixed term contract. That during cross- examination the claimants they confirmed receipt and signing of the contracts but did not raise issue with clause 1 which was contrary to both clause 2 of the contract and the service bond. That the nature of the employment contract was thus fixed contract. The respondent relied on several decision on fixed term contracts having no automatic renewal. The claimants did not submit on this issue. The court looked at the cited decisions. The respondent in particular emphasized the fixed contract was not automatically renewable and relied on the *Stephen M. Kitheka v Kevita International Limited*(2018)E KLR by Justice Maureen Onyango where the court recorded submissions of the respondent which cited decision in *George Onyango v the Board of Directors of Numerical Machining Limited & others* [2014] eKLR where it was held that:

> "The petitioner nonetheless has no reason to consider himself as the Managing Director to-date. His contract was for a fixed term of three years, which lapsed on November 9, 2012. He should have expected the contract to lapse on November 9, 2012, in equal measure to his expectation that he would be granted, a renewal. Legitimate expectation went both ways. 'There was nothing in the expired contract to suggest that the petitioner would in any event continue holding over after November 9, 2012, even if the board, whatever its legitimacy, jailed to answer his requests for renewal. The terms that were frustrated were the exit terms, and in particular, the renewal clause. It is not possible that he would go on being the Managing Director by default. The court would be making him a beneficiary of the violations he has ably brought to the fore, by upholding his submission that he is still the legitimate Managing Director of the Company. Even without the letter communicating non -renewal, the petitioner was aware of the expiry date of his fixed term contract. 'There was reasonable chance he would not have a second term. The illegal Board did not make a decision to terminate the contract of employment; they decided, not to renew a lapsed contract. 'To direct the 1st respondent is restrained from interfering with the petitioner's role as the Managing Director would result in the court renewing the petitioner's contract, or giving him the benefit of holding over."

Decision on issue 1

14. The court finds that the terms of contract of the claimants with the respondent were contradictory with clause 1 offering employment on 2 year fixed term employment contract and clause 2 stating duration of contract to be 1 year. The compulsory service bond was also for one year though starting February 1, 2015 while the contract of employment began February 20, 2015.

    The claimants relied on clause 1 of the contract to state their contract was terminated unfairly while the respondent relied in clause two of the employment contract read together with the service bond to state the claimants contract terminated on expiry of 1 years and were not renewed. The letters of employment for the 3 claimants were similar in content and read in part:-

    Clause 1 – 'this letter confirms your employment on a two year fixed term of employment in the position of management trainee of West Kenya sugar company limited."

    Clause 2 – 'duration of contract – your contract period shall be one (1) year shall commence on February 20 2015 and expire on January 31 2016. ..."(see page 26 of 63 of the consolidated bundle of the respondent).

    The respondent submits that further to the employment contracts the claimants signed a compulsory service bond which provided thus for every claimant- ' the company had offered and the trainee has accepted a scheme under which the trainee will be provided management , theoretical , operational and

practical training for a duration of one(1) year commencing February 2015 to January 31, 2016" (see page 29 of 63 of the consolidated bundle of the respondent)

15. The claimants submit they had all served more than 13 months by time of termination of engagement. The letter of termination was dated March 31, 2016 and the court finds that it was true they had served more than 13 months. (pages 36,48,61 of 63 of the respondent's bundle of documents being the respective termination letters). The termination letters (as titled) for the claiamnsts" contracts were all dated March 31, 2016(termination letters at page 11, 23, 26 of the respondent's bundle). The ground of termination was based on poor performance stating contracts would not be renewed. Clause 2 of contract duration was to end on the January 31, 2016 . The 1st clause of the contracts of employment provided for employment contract of 2 years.

16. The court finds that authorities then cited by the respondent had no ambiguity in the contract term hence not applicable in the instant case as relates to the interpretation of the contract of employment between the parties. Employment contract terms are mainly defined by the employers and in this case the employer presented written contracts with the terms of employment for the employees to sign. Where an employment contract is ambiguous, it will be construed most strongly against the party preparing it or employing the words concerning which doubt arises. This rule applies to contracts prepared by the employer, or by the employer's representative such as his or her advocates. This is called the doctrine of contra proferentem (loosely translated to mean guilty of the drafter), which requires resolution of ambiguity in favour of the party that did not draft the term. In other words, when an employee signs off on an ambiguous employment contract prepared by the employer, the court will usually apply the interpretation that favours the employee. There was ambiguity in the employments contract drafted and presented for signature by the respondents to the claimants. The claimants are entitled to rely on clause 1 providing for 2 years term of employment. The claimants service were terminated when servicing in the 2nd year. The court applying the doctrine of *contra proferentem*(supra) finds the most favourable clause to the claimants(employees) of 2 year contract applied to the claimants who were already serving on the 2nd year since employment.

Issue 2 Whether there was discrimination against the claimants

17. The claimants alleged discrimination for non-provision of medical insurance facility which they alleged the employer to have deliberately excluded them from the facility apparently enjoyed by their peers in employment. During cross-examination the 1st claimant confirmed the facility was not provided in their contracts of employment and had no evidence of other staff enjoying the facility. In the submissions the claimant's counsel addressed issue of service bond under discrimination. In the statement of claim the allegation of discrimination was based on the medical policy facility. Parties are bound by their pleadings and written submissions are not pleadings.

18. The claimants had the burden of proof under section 107 of the *Evidence Act* of the said discrimination to wit: '107. Burden of proof. (1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist." The court found no evidence of the allegation of discrimination against the claimants based on the medical policy facility The burden of proof of the allegation of discrimination was not discharged by the claimants. Section 34 of the *Employment Act* only requires provision of medical attention and care in event of the employee being sick as follows:- '34. Medical attention (1) Subject to subsection (2), an employer shall ensure the sufficient provision of proper medicine for his employees during illness and if possible, medical attendance during serious illness." Consequently the court holds that the claim for medical insurance facility not based on statute and not being provided under contract, the claim for discrimination was thus baseless and is dismissed.

Issue 3. Whether there was unlawful and unfair termination of employment of the claimants

19. The claimants submit that the reasons for the termination were not substantiated. The statutory burden of proof on validity of reasons for termination of employment lies with the employer under section 43 of the *Employment Act*. Section 43 of the *Employment Act* provides for proof of reason on termination as follows:

    '(i) In any claim arising out of termination of a contract the employer shall be required to prove the reason or reasons for the termination and where the employer fail to do so the termination shall be deemed to have been unfair within the meaning of section 45.

    (ii) The reasons or reasons for the termination of a contract are the matters that the employer at the time of termination of contract genuinely believed to exist and which caused the employer to terminate the services of the employee."

    Section 45 of the *Employment Act* states:-'(1) No employer shall terminate the employment of an employee unfairly.

    (2) A termination of employment by an employer is unfair if the employer fail to prove

        (a) that the reason for the terminations valid

        (b) that the reason for the terminations is fair reason

            (i) related to the employees conduct, capacity or compatibility or

            (ii) based on the operational requirements of the employer

        (c) that the employment was terminated in accordance with fair procedure.'

20. The letter of termination of the employment of the 3 claimants dated March 31, 2016 were similar in content. It gave reasons of the termination as follows:- 'the company has reviewed and/or evaluated your performance both at work and at the rugby club and the same has been found unsatisfactory."DW1 was the Human Resources Manager for the respondent. During cross-examination DW1 told the court there was no record on the evaluation of the discipline of the claimant and no record of performance evaluation. In re-exam DW1 told the court the letter was not termination but non renewal of contract and that the claimants were not terminated based on the show cause letters. DW2 was the captain of the Kabras Rugby team where the claimants were bonded to play as they worked. DW2 confirmed the claimants were dependable players and that he had no record of their absenteeism, stated there was an incident at Muhoroni area, he did not report to the police on road blocks of any of the players endangering their lives on the road, he did not mention name of the driver in his statement and there was no police report but in reexam he confirmed he stated name of driver to be Amondo. DW3 was the driver Amondo who on cross- examination confirmed he had driven the 1st claimant several times and only had that one incident of being a nuisance and he did not report him to the police at the road blocks, that he reported the next day orally to his bosses and told the court he was not called to disciplinary proceedings on the issue.

21. It was the claimants' case the notice to show cause allegations to each of them were not substantiated and indeed their termination was prior discussed in their absence by management and agreed upon(page 80 to 81 of the claimants' consolidated documents of March 30, 2022 were the email exchanges between the respondent agents).

Decision on issue 3 substantive fairness

22. The burden of proof of reasons for termination lies with the employer. Section 43 requires proof of reason for termination by the employer. Section 43(2) guides the court on the prove of reasons by providing as follows, "43(2) the reasons or reasons for termination of a contract are the matters that the employer at the time of termination of the contract genuinely believed to exist and which caused the employer to terminate the services of the employee". DW1 was the human resources manager of the respondent and confirmed on oath that the claimants' employment contracts were not terminated based on the notice to show cause issued to them but it was non renewal of the contract after one year. The court found that the contract of employment was 2 years for the reasons that it was so stated in clause 1 of the each of the respective contracts and secondly that where there is an ambiguity in employment contract the clause which is most favourable to the employee applies. Thirdly in the instant case the claimants worked and were paid for 2 months into the 2nd year and by conduct of the respondent was deemed to have taken the position the contract was for 2 years under clause 1 for allowing employee to work post the expiry day it is deemed the contract is renewed. The letters of termination, as it is stated, gave reason for termination to be 'the company has reviewed and/or evaluated your performance both at work and at the rugby club and the same has been found unsatisfactory." Defense witnesses on oath confirmed there was no evaluation of performance on record. Section 45 of the *Employment Act* states:-

'(i) No employer shall terminate the employment of an employee unfairly.

(2) A termination of employment by an employer is unfair if the employer fail to prove

(a) that the reason for the terminations valid

(b) that the reason for the terminations is fair reason

(i) related to the employees conduct, capacity or compatibility or

(ii) based on the operational requirements of the employer

23. To determine if the given reason based on performance at work and rugby club was unsatisfactory an evaluation of performance report is the only objective criteria the employer can rely on as proof of poor performance. DW1 confirmed there was no performance evaluation report. The court upholds decision of Mbaru J in *Jane Samba Mukala v Ol Tukai Lodge Limited* (2013)e KLR by to effect that where poor performance is shown to be reason for termination the employer had to demonstrate they had in place policy or practice on how to measure good performance as against poor performance. There was no proof by the respondents of the reason of poor performance by the claimants at work or at the rugby club. The court then find and determines the reasons given for the termination were unfair.

Whether there was procedural fairness.

24. The procedural fairness process is stated under section 41 (2) of the *Employment Act* as follows:- '' 41. Notification and hearing before termination on grounds of misconduct (1) subject to section 42(1), an employer shall, before terminating the employment of an employee, on the grounds of misconduct, poor performance or physical incapacity explain to the employee, in a language the employee understands, the reason for which the employer is considering termination and the employee shall be entitled to have another employee or a shop floor union representative of his choice present during this explanation." The procedure which is mandatory required the employer before terminating the claimants on basis of poor performance to explain to the employees in a language

they understand the reason the employer was considering the termination and hear the employees in presence of another employee or shop floor union presentative of their choice at disciplinary process.

25. DW1 the Human Resources Manager of the respondent and at cross- examination confirmed to court there was no disciplinary hearing of the claimants before the issuance of the letters of termination. During re-examination DW1 told the court the claimants'' contracts were not terminated on basis of show cause letters but on end of the contract term of one year.

26. The claimants stated the termination was procedurally unfair for lack of performance evaluation and hearing and relied on the decision in *Jane Samba Mukala v Ol Tukai Lodge Limited* [2013] e KLR by Justice Monica Mbaru where she held;- '' Where this procedure as set out under section 41 of the *Employment Act* is not followed, then a termination that arises from it will be procedurally flawed. It is procedurally irregular. this holding was as similarly held in the case of *Avril Elizabeth Home for the Mentally Handicapped v Commission for Conciliation, Mediation and Arbitration & others* (2006) 27 ILJ 1644 (LC) that n an employee is charged with poor performance, it must be clearly set out and differentiated between what is a misconduct and incapacity both conceptually and practically.'' The court upholds the said decision in finding that in the termination process of the claimants' employment contracts had no disciplinary hearing hence the process was procedurally unfair for non- compliance with the provisions of section 41 if the *Employment Act*

27. Section 45 (5) *Employment Act* provides:- 'whether it is just and equitable for an employer to terminate the employment of an employee and for the purposes of this section, a labour officer or the industrial court shall consider:-

    (a) The procedure adopted by the employer in reaching the decision to dismiss the employee, the communication of that decision to the employee and the handing of appeal against the decision.

    (b) the conduct and capability of the employee upto the date of termination.

    (c) the extend to which the employer has complied with any statutory requirements.....

    (d) The previous practice of the employer in dealing with the type of circumstances which led to the termination.'' The court found that the reasons for the termination were not valid and there was no compliance with the procedural process under section 41 of the *Employment Act*. In the upshot the court holds that the termination of the employment contracts of the claimants was unlawful and unfair.

Issue 4- Whether the claimants are is entitled to reliefs sought

28. The court found that the termination was unfair for lack of valid reasons and procedurally unfair. The claimants had sought for reinstatement and in the alternatives general damages for unfair termination and damages for discrimination. During the hearing the claimants admitted they were paid notice and accrued leave days. In the submissions the claimants addressed prayer for maximum compensation and based on fact of being bonded for 5 years hence could not secure employment elsewhere. The court found no evidence they applied for release and indeed were not playing for Kabras rugby team after termination. The claimants sought general and special damages for the unlawful and unfair termination, damages for discrimination and costs.

29. The respondent submitted on the prayer for compensation that the court should take into account the short period of service by the claimants which was one year and relied on the decision in the *Youth Agenda v Rita Kijala Shako* (2017)e KLR where the Court of Appeal held:- '37. It is not clear from the judgment the basis upon which the learned judge considered an award for compensation based on

10 months as appropriate. while the remedies awardable under section 49(1) include payment of the equivalent of a number of months salary not exceeding 12 months, section 49(4) of the Act sets out matters that should be considered or taken into account when considering remedies. The factors to be taken into account include the employees length of service with the employer, the expectation of the employee as to the length of time for which the employment might have continued but for the termination, opportunities available to the employee for securing comparable or suitable employment with another employee, any compensation in respect of termination of employment paid by the employer and received by the employee.''That the Court of Appeal in the foregoing decision found it was unfair for an employee who had worked for 1 year to be compensated for 10 months salary and further held:- '40. The respondent in the present case had worked for the appellant for just over one year. The contract of service was for 2 years and had provision for termination by either party giving 3 months written notice or payment of 3 months salary in lieu of notice. Considering these factors, we think the award of the equivalent of 10 months salary as compensation was on the high side and not justified. We appreciate that compensation under section 49 of the Act is not confined to the wages which the employee would have earned had the employee been given the period of notice to which she was entitled. It may include that and more. Taking into account those factors and the fact that the appellant did not establish a valid reason for terminating the respondent's employment and did not accord her a hearing, we consider that compensation based on the equivalent of 2 months gross salary in addition to three months salary in lieu of notice is reasonable award.''

30. The respondent further relied on decision in *Mary Mumbi Kariuki v Director Pamoja Woman Development Programme*(2015)e KLR where Justice Radido considered a similar case of for employee who had worked for 2 yeas and held:-'43. The court has found the termination of claimant's employment unfair. Considering her length of service, the court would award her the equivalent of 2 months gross wages (inclusive of house allowance) assessed as Kshs 34,500/- as compensation.''

Decision

31. The court upholds the decision by Court of Appeal in *Youth Agenda v Rita Kijala Shako* (2017)e KLR to effect that the award for remedy of the unfair termination must be justified. The court held:- 'While the remedies awardable under section 49(1) include payment of the equivalent of a number of months salary not exceeding 12 months, section 49(4) of the Act sets out matters that should be considered or taken into account when considering remedies. The factors to be taken into account include the employees length of service with the employer, the expectation of the employee as to the length of time for which the employment might have continued but for the termination, opportunities available to the employee for securing comparable or suitable employment with another employee, any compensation in respect of termination of employment paid by the employer and received by the employee.'' Applying the said factors under section 49(4) stated in the authority the Court of Appeal *Youth Agenda v Rita Kijala Shako* (2017)e KLR in the instant case the court found evidence the contract was for 2 year with performance bond to work for 5 years on successful completion of one year. The claimants successfully completed one year and were serving in 2nd year of management trainee contract when the same was terminated unlawfully and unfairly. Taking consideration the length of service of 14 months, remaining period of two year contract , expectation of permanent contract having completed I year successively under the performance agreement between the parties, the service bond of 5 years , the court applying the decision by Court of Appeal Youth Agenda case which had 3 months notice and 2 months gross salary making 5 months salary in total, in the instant case notice pay of one month was paid, the court taking all these circumstances into account finds general damages compensation equivalent of 4 months gross salary compensation deserved and adequate compensatory damages of the unlawful and unfair termination.

32. The court found the decision in *Mary Mumbi Kariuki v Director,Pamoja Women Development Programme* [2015] e KLR the decision established reason of absconding duty hence award was for procedural fairness only. The instant case was materially different hence deserving a bigger award.

33. On claim for discrimination, the court did not find evidence of discrimination hence no award.

34. The court having granted alternative prayer for general damages as guided by submissions of the claimants, then the prayer of reinstatement was not available. Further due to lapse of time, 3 years since termination pursuant to provisions of the *Employment and Labour Relation Court Act* section 12(3) (vii) which states:- 'an order for reinstatement of any employee within three years of dismissal, subject to such conditions as the court thinks fit to impose under circumstances contemplated under any written law; '' The claimants' contracts were terminated on the March 31, 2016 which is beyond 3 years statutory limitation for reinstatement.

Conclusion And Disposal

35. The court determines the 3 claimants dismissal from service by the respondent was unlawful and unfair and grants the following orders:-

    a. Each claimant is awarded compensation pay at the equivalent of 4 months gross salary with last payslip indicating Kshs 34,500 total awarded general damages to each being the sum of Kshs 138,000/-

    b. Costs of the suit

    c. Interest is awarded on the award amounts(a & b) at court rate from date of judgement until payment in full.

36. It is so ordered

DATED, SIGNED AND DELIVERED IN OPEN COURT AT BUNGOMA THIS 27TH DAY OF APRIL 2023.

JEMIMAH KELI,

JUDGE.

IN THE PRESENCE OF :-

Court Assistant: Lucy Macheso

Claimants : Shifwoka

Respondent: absent