



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT KISUMU

CAUSE NO. 286 OF 2016

(Originally Kisii High Court Civil Case No. 17 of 2007)

ALFRED OGINGA IGONYI..... 1ST CLAIMANT
ARATI OMWANGE2ND CLAIMANT
BONFACE OBIERO..... 3RD CLAIMANT
CLEMENT AYIENDA.....4TH CLAIMANT
DAVID MOSOBA.....5TH CLAIMANT
DISMAS OMWOYO..... 6TH CLAIMANT
EVANS ORANGI 7TH CLAIMANT
FRANCIS KEBWAGE.....8TH CLAIMANT
GRACE NYABOKE..... 9TH CLAIMANT
HANDSON OGANGA10TH CLAIMANT
HELLEN OYUNGE11TH CLAIMANT
HENRY OMBOGO.....12TH CLAIMANT
IBRAHIM ONDARA..... 13TH CLAIMANT
ISAC OSORO14TH CLAIMANT
JAMES ONYAMBU 15TH CLAIMANT
JAMES SIBWOGA..... 16TH CLAIMANT
JENEPHER NYABERI.....17TH CLAIMANT
JANET ORINA18TH CLAIMANT
JERUSA ONCHARI..... 19TH CLAIMANT
JOWL MOCHUMA OKERO.....20TH CLAIMANT

JOEL NYAKORA	21 ST CLAIMANT
JOHN BONGOYE	22 ND CLAIMANT
JOHN NYABOGA	23 RD CLAIMANT
JOSEPH ONDARI.....	24 TH CLAIMANT
JOSEPHINE NYAMORI.....	25 TH CLAIMANT
LUCY BARONGO	26 TH CLAIMANT
MARCELLA MACHOMA	27 TH CLAIMANT
NATHAN OSORO	28 TH CLAIMANT
PETER OKWENDA	29 TH CLAIMANT
RICHARD OBONYO	30 TH CLAIMANT
RICHARD TANI	31 ST CLAIMANT
SIMION OYONGO.....	32 ND CLAIMANT
SIMON MOKAYA.....	33 RD CLAIMANT
ZIPORAH MATUNDRA	34 TH CLAIMANT
JANE NYAMBANE	35 TH CLAIMANT
AMOS MAGEMBE.....	36 TH CLAIMANT
ELIZABETH MORAA	37 TH CLAIMANT
DOMNIC ONYUOKI	38 TH CLAIMANT
EVALINE OSEKO	39 TH CLAIMANT
IBRAHIM NYAMGARESI	40 TH CLAIMANT
JULIANA ORINA	41 ST CLAIMANT
RHODA KWAMBOKA	42 ND CLAIMANT
SELINA NYABONYI.....	43 RD CLAIMANT
MESHACK KEINDA ONDARI.....	44 TH CLAIMANT
NEMWEL OGECHI	45 TH CLAIMANT
JAMES NYABWANGA	46 TH CLAIMANT
RAEL OTWEKA	47 TH CLAIMANT
LABAN NYANDEGE.....	48 TH CLAIMANT
NELSON MOGENI	49 TH CLAIMANT
HANNINGTON MARUBE AKUNA.....	50 TH CLAIMANT

MISHAEL OMWENO..... 51ST CLAIMANT
PENINA OSEKO52ND CLAIMANT
DISHON MAKORI53RD CLAIMANT
GLADYS MIRUKA.....54TH CLAIMANT
JOSEPH MOMANYI.....55TH CLAIMANT
JOYCE KEREBI..... 56TH CLAIMANT
JOYCE OGECHI57TH CLAIMANT
MARGARET ORINA.....58TH CLAIMANT
MARY MAOBE.....59TH CLAIMANT
MARY MAYAKA60TH CLAIMANT
ONDIEKI NYANDIRI.....61ST CLAIMANT
ELIJAH KERONGO..... 62ND CLAIMANT
ONCHWERI OYARO63RD CLAIMANT
HESBON ONCHARI64TH CLAIMANT
NATHAN ONYANGO65TH CLAIMANT
SAMSON MOSONGO.....66TH CLAIMANT
HEZRON MOTARO ONWONG'A....67TH CLAIMANT

VERSUS

OGEMBO TEA FACTORY LTD.....RESPONDENT

RULING NO. 2

1. In a judgment delivered on 9 July 2019, the Court entered judgement for the Claimants and directed the parties to compute and file in Court for adoption within 14-days, the salary and allowances arrears due to the Claimants.
2. The parties did not agree and the Claimants filed their computations on 9 August 2018.
3. On 14 August 2018, the Respondents Head of Legal and Regulatory Affairs wrote to the Claimants' advocates forwarding their computations (totaling Kshs 18,672,257/-) and requesting for a meeting to negotiate possible settlement.
4. The Claimants accepted the offer through a letter dated 30 March 2020.
5. When the Cause was mentioned on 25 May 2021 to confirm compliance, the Claimants informed the Court that they had filed computations and that they had also got an offer from the Respondent.
6. The Respondent however indicated that they wanted more time to meet with the Claimants and the Court gave them more time and directed that a consent be filed if agreement was reached. The Court fixed the matter for mention on 24 June 2021.
7. On 24 June 2021, the Claimants informed the Court that they had accepted the offer from the Respondent. The Respondents however stated that the parties had not met.
8. The Court therefore directed the Respondent to file its computations on the arrears, but the order was not complied with and the Court gave the Respondent the last opportunity to comply before 3 November 2021.

9. When the parties appeared in Court on 3 November 2021, the Claimants again indicated that they had accepted the Respondent's offer to pay Kshs 18,672,257/- instead of the Kshs 21,300,228/- they had sought.

10. The Claimants further indicated that they had filed an affidavit in Court on 20 April 2021 indicating acceptance of the offer.

11. The Respondent however contended that negotiations had collapsed and that they had filed an appeal before the Court of Appeal.

12. On 18 November 2021, the Court directed that it would render a Ruling today.

13. The Court has considered the record and affidavits filed and come to the conclusion that since the Respondent made an offer and which offer was accepted by the Claimants and considering that the Respondent has not been keen to have this long outstanding matter resolved, the computations by the Respondent which were accepted by the Claimants be adopted as part of the judgment.

14. Before concluding, the Court notes that the conduct of the Respondent during the various mentions indicates a party intent on delaying as much as possible the effective resolution of a dispute which had ended in adverse orders being made against it. It is not even discernible from the file whether the Respondent collected certified copies of proceedings despite being informed on 18 May 2020.

Conclusion and Orders

15. The Court therefore enters judgment for the Claimants in the sum of Kshs 18,672,257/-.

16. The sum to attract interest at court rates from 30 March 2020 being the date the Claimants accepted the offer.

DELIVERED THROUGH MICROSOFT TEAMS, DATED AND SIGNED IN KISUMU ON THIS 16TH DAY OF FEBRUARY, 2022

RADIDO STEPHEN, MCIARB

JUDGE

Appearances

For Claimants Ondabu & Co. Advocates

For Respondent Nyachiro Nyagaka & Co. Advocates

Court Assistant Chrispo Aura