



**Kenya County Government Workers Union v County Government of Kiambu
(Cause 115 of 2006) [2022] KEELRC 1600 (KLR) (16 June 2022) (Ruling)**

Neutral citation: [2022] KEELRC 1600 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 115 OF 2006
MN NDUMA, J
JUNE 16, 2022**

**BETWEEN
KENYA COUNTY GOVERNMENT WORKERS UNION APPLICANT
AND
COUNTY GOVERNMENT OF KIAMBU RESPONDENT**

RULING

1. The applicant in the application dated March 2, 2021 prays for orders:-
 1. That County Government of Kiambu be advised of the amount payable – Kshs 813,752,680 as per order and award dated 13th day of May, 2009.
 2. That the cost of this application be provided for.
2. The application is supported on grounds set out on the face of the application and in the supporting affidavit of Peninnah Nduta Mungai to wit that there is a decree by this court that the amount payable was arrived at as per collective bargaining agreement registered by this court which is still in force.
3. That the respondent is in full knowledge of the decree. That the respondent has reinstated some workers and the respondent was given notice to retire those who have attained retirement age.
4. That the respondent is aware of the calculation of arrears payable and has been served.
5. A notice of preliminary objection dated May 10, 2021 was filed by Mwaura & Wachira Advocates for the respondent to wit:-
 1. The entire application dated March 2, 2021 is ab initio incompetent, fatally defective and cannot stand in law before this honourable court because it is functus officio, the judgment in the matter having been delivered on May 13, 2009.



2. The application dated March 2, 2021 in the entirety is an abuse of the court process and ought to be struck out with costs to the respondent.
6. The court has considered the judgment of the erstwhile industrial Court delivered on May 13, 2009.
7. The said judgment provides no express basis for filing of the application before court.
8. The suit was heard and determined by the court in that judgment, and the court is functus officio and cannot issue any further orders that find no basis from the said judgment.
9. A judgment of the court speaks for itself and is to be executed through known procedures in law in terms of all matters found in the four corners of the judgment.
10. Accordingly, the preliminary objection is upheld and the application dismissed for being an abuse of the court process and lacking in any merit.
11. Each party to bear own costs of the application.

DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 16TH DAY OF JUNE, 2022.

MATHEWS N. NDUMA

JUDGE

Appearances

Mr. Mwaura and Wachira Advocates for the Objector

Kinuthia Wankaka & Co. Advocates for the Claimant/Applicant

Ekale – Court Assistant

