



Mokaya v Kithure Kindiki t/a Kithure Kindiki & Associates (Petition 62 of 2019) [2021] KEELRC 1 (KLR) (30 September 2021) (Judgment)

Yasmin Josephine Mokaya v Professor Kithure Kindiki t/a Kithure Kindiki & Associates [2021] eKLR

Neutral citation: [2021] KEELRC 1 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION 62 OF 2019
MN NDUMA, J
SEPTEMBER 30, 2021

BETWEEN

YASMIN JOSEPHINE MOKAYA PETITIONER

AND

KITHURE KINDIKI T/A KITHURE KINDIKI & ASSOCIATES RESPONDENT

Remedies to an employee whose employment was terminated on account of pregnancy.

Reported by Kakai Toili

***Labour Law** – employment – termination of employment – termination on the ground of redundancy - procedure to be followed in the termination of employment on the ground of redundancy – claim that an employee’s contract of employment was terminated as a result of discrimination based on pregnancy - what were the remedies an employee whose employment was terminated on account of pregnancy entitled to? - Constitution of Kenya, 2010, article 27; Employment Act, 2007, sections 5(3)(a) and 40.*

***Civil Practice and Procedure** – suits – institution of suits - what were the ways in which litigants could approach courts on the issues of discrimination at the work place - Constitution of Kenya, 2010, article 23.*

Brief facts

The petitioner worked for the respondent on a contractual basis and her last contract was renewed on December 29, 2017 for a period of one year commencing on January 1, 2018 and was to end on December 31, 2018. The petitioner claimed that about January 26, 2018, the petitioner informed the respondent that she was pregnant and that she intended to proceed with her maternity leave and the leave was approved. The petitioner further claimed that the approval of the maternity leave was withdrawn with no sufficient reason.

The petitioner stated that the respondent informed her to forfeit any payment and benefits due to her while on maternity leave before the leave could subsequently be authorized. On March 1, 2018, the petitioner received a letter of termination which stated that the reason for the termination was due to a long spell of financial constraints. The petitioner averred that there had been no prior notice that the respondent was facing financial hardships/constraints and that some of its employees would be declared redundant; there had been no notice



to the labour office on the purported redundancy and there was no criteria used that led to the selection of the petitioner as the employee to be declared redundant other than the fact of her pregnancy.

The petitioner thus filed the instant petition seeking among others; a declaration that the petitioner's termination of service by the respondent was based on her pregnancy, and therefore discriminatory, unfair, unlawful, and in violation of the , 2007, the contract of Employment, and the Constitution of Kenya, 2010 (Constitution); and in the alternative, a declaration that the respondent's purported termination of the petitioner's employment on grounds of redundancy was a breach of the petitioner's right to fair labour practices and fair administrative action.

Issues

- i. What remedies were available to an employee whose employment was terminated on account of pregnancy?
- ii. What were the ways in which litigants could approach courts on the issues of discrimination in the workplace?
- iii. What was the procedure to be followed in the termination of employment on the ground of redundancy?

Held

1. Section 5(3) of the , 2007, specifically prohibited any employer from discriminating directly or indirectly, against an employee or prospective employee or harassing an employee on grounds of pregnancy. Article 27 of the Constitution elevated the matter of discrimination on grounds of pregnancy to the Bill of Rights in the Constitution. That had seen litigants approach the court on the issues of discrimination at the workplace by way of a statement of claim under the , or by a constitutional petition under article 23 of the Constitution. Whichever way a litigant followed, the primary onus of proof on the alleged facts lay with the claimant or the petitioner in terms of sections 107 and 108 of the (cap. 80 Laws of Kenya).
2. The director of finance, administration and strategy of the respondent (director of finance) did not lay the basis of his knowledge of matters discussed in meetings held between the petitioner and the chairman of the respondent. The director of finance did not depose that he attended any of the meetings held between the petitioner and the chairman in which the veiled threat of termination of employment of the petitioner if she refused to take unpaid maternity leave was made. The petitioner had proved on a balance of probabilities that the respondent terminated her employment on account of her pregnancy and persistence that she was to take a statutory three (3) months paid maternity leave.
3. The petitioner had demonstrated that, even if the termination of the petitioner, which was denied was due to financial constraints, the respondent did not follow the procedure for declaration of redundancy under section 40 of the , 2007. The respondent neither gave a one-month notice of redundancy to the petitioner and the labour officer nor did they pay the petitioner severance pay for the period served. In addition, they did not pay the petitioner in *lieu* of leave days not taken and in *lieu* of one month notice period.
4. The petitioner having served the respondent up to the time she was due for maternity leave was entitled to be paid maternity leave for a period of three (3) months. That amount was payable despite the unlawful termination of the employment of the petitioner on account of pregnancy. The evidence by the respondent that the termination of the employment of the petitioner was due to financial constraints was untenable.
5. The respondent violated section 5(3)(a) of the , 2007 read with article 27(4) of the Constitution for terminating the employment of the petitioner on account of her pregnancy. The conduct by the respondent was discriminatory, unfair, and unlawful.
6. The petitioner, in addition to the payment of compensation and terminal benefits set out in the petition, was also entitled to an award of exemplary damages for the violation of her statutory and



- constitutional right not to be discriminated and/or treated differently from other persons on account of her pregnancy.
7. The petitioner lost 9 months of employment and means of livelihood on account of pregnancy at her hour of need, when she needed those finances most, for prenatal and postnatal care. The petitioner was entitled to compensation for the job loss in terms of section 49(1)(c) and (4) of the , 2007.
 8. The concerted defence by the respondent, which was devoid of any merit was an aggravating factor in the suit. The petitioner did not contribute to the termination. The petitioner had served faithfully for a period of two (2) years. The petitioner suffered psychological torture and framed accusations during the trial. The conduct by the respondent was egregious. The petitioner was not paid terminal benefits nor was she compensated for the job loss. The petitioner lost prospects of career progression in a good law firm on unjust grounds. The petitioner earned Kshs.92,149 per month in the renewed contract. The nine months lost in the renewed contract included the three-month maternity leave period.

Petition allowed.

Orders

Judgment was entered in favour of the petitioner against the respondent as follows:

1. *Equivalent of six (6) months compensation for unlawful and unfair termination of employment in the sum of Kshs 552,894.*
2. *Kshs 129,008.60, in lieu of taken leave days not taken.*
3. *One month salary in lieu of notice – Kshs 92,149.*
4. *Exemplary damages for violation of the petitioner’s rights in the sum of Kshs.1,500,000. Total award – Kshs.2,274,051.60*
5. *Certificate of service was to be provided within 30 days of judgment.*
6. *Interest at court rates from date of judgment till payment in full.*
7. *Costs of the suit.*

Citations

Cases

1. *Daniel Musinga T/A Musinga & Co Advocates v Nation Newspapers Limited* Civil Case 102 of 2000; [2000] eKLR — Explained
2. *Kenfright (EA) Limited v Benson K Nguti* Civil Appeal 31 of 2015; [2019] eKLR— (Explained)
3. *VMK v CUEA* Cause No 1161 of 2010; [2013] eKLR —(Explained)

Statutes

1. Constitution of Kenya, 2010 articles 22 , 23, 24, 25, 26, 27, 41, 47, 260 — (Interpreted)
2. Employment Act (cap 266) sections 5(3); 40; 49(1)(c)(4) — (Interpreted)
3. Evidence Act (cap 80) sections 107,108 — (Interpreted)
4. Fair Administrative Act, 2015 (Act No 4 of 2015) sections 2, 3(c); 4(3); 4(4) —(Interpreted)

Advocates

1. *Rachier & Amollo LLP* for petitioner
2. *Benson Njuguna & Co Advocates* for respondent

JUDGMENT

1. The petitioner in the petition dated 14th February, 2019 and filed on 19th March, 2019 prays for an order in the following terms:-
 - (a) A declaration that the petitioner’s termination of service by the respondent was based on her pregnancy, and therefore discriminatory, unfair, unlawful,



and in violation of the Employment Act, 2007, the contract of Employment, and the Constitution of Kenya.

- (b) In the alternative to (a) above a declaration that the respondent's purported termination of the petitioner's employment on grounds of redundancy was a breach of the petitioner's right to fair labour practices and fair administrative action as per articles 41 and 47 of the *Constitution* as read with section 40 of the Employment Act and sections 2, 3(c), 4(3) and 4(4) of the Fair Administrative Act.
 - (c) Exemplary Damages for the violation of the petitioner's rights as per (a) and (b) above.
 - (d) An order directing the respondent to pay to the Petitioner full salary for the remaining period of the contract, from April 2018 to December, 2018
 - (e) Interest on (c) and (d) above from the date of filing of suit until payment in full.
 - (f) Costs of the suit.
2. The petition is premised on facts set out in paragraph B of the petition numbered (3) to 18 the nub of which is that the petitioner joined the respondent as a pupil on 2nd June, 2015. That she was admitted to the bar and became an advocate and was retained by the respondent on 1st January, 2016 and continued working diligently and in an exemplary manner until her employment was unlawfully and unprocedurally terminated.
 3. That the petitioner served on contractual basis and her last contract was renewed on 29th December, 2017 for a period of one year commencing on the 1st January, 2018 and was to end on 31st December, 2018.
 4. That the petitioner earned a monthly salary of Kshs 92,149.
 5. That on or about the 26th January, 2018, the petitioner informed the respondent that she was pregnant and that she intended to proceed for her maternity leave from the 5th March, 2018 to 5th June, 2018. That the leave was approved.
 6. That to the petitioner's utter surprise, the approval of the maternity leave was withdrawn with no sufficient reason and/or explanation.
 7. The petitioner was then informed by the respondent that she should forfeit any payment and benefits due to her while on maternity leave before the leave could subsequently be authorized.
 8. The petitioner refused that request and informed the respondent that she was entitled to all payments and benefits due to her while on maternity leave.
 9. The petitioner states that she had several meetings with the respondent on the issue of her maternity leave and benefits due to her while on leave and the respondent clearly contemplated termination of the petitioner's contract if the petitioner did not write a letter forfeiting her pay during the maternity leave. The petitioner refused to waive her lawful entitlement.
 10. On 1st March, 2018, the petitioner received a letter of termination in which was stated that the reason for the termination was due to "a long spell of financial constraints." The respondent was therefore declaring the petitioner redundant which reason was without basis since the petitioner had



just renewed the contract of the petitioner up to December, 2018. The petitioner's expected monthly salary for the new contract period had been increased.

11. There had been no prior notice that the respondent was facing financial hardships/constraints and that some of its employees would be declared redundant; there had been no notice to the labour office on the purported redundancy and there was no criteria used that led to the selection of the petitioner as the employee to be declared redundant other than the fact of her pregnancy.
12. The petition is founded on the provisions of the Constitution and in particular article 27 of the Constitution which provides that every person is equal before the law and has the right to equal protection and equal benefits of the law and that a person shall not discriminate directly or indirectly against another person on any ground, including race, sex, pregnancy, marital status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.
13. That article, 260 defines a person to include a company, association or other body of persons whether incorporated or unincorporated and therefore includes the respondent.
14. That the petitioner has a right to institute the suit under the bill of rights including articles 22, 23, 24, 25 and 26 of the Constitution of Kenya, 2010.
15. The petitioner buttressed her facts vide a supporting affidavit sworn to on 14/2/2019 and supporting documents attached thereto including contracts of employment as an associate II dated 31/12/2016; and 8/1/2018; the Notice of termination dated 1/3/2018 in terms of which the petitioner was given one month notice of termination written by Mr Kithure Kindiki, Chairman and founding partner of the respondent.
16. The petitioner also attached a letter of demand dated 25/4/2018 by the Advocate for the petitioner to the respondent in which was demanded a withdrawal of the termination letter and in the alternative, payment of full salary for the 9 months remaining in the contract; one month salary in lieu of notice; 3 months' salary being the salary for the duration of the maternity leave and untaken leave days. A reminder dated 29th August, 2018 is also attached. The demand letters were not heeded, hence the suit.
17. The respondent filed a replying affidavit to the petition sworn to by Moses Mpuria on 25/4/2019 and a further replying affidavit sworn to by Lilian Nyaga Advocate on the even date.
18. Mr Moses Mpuria deposes that he is the Director of Finance, Administration and Strategy of the respondent and that he was familiar with the facts of the case.
19. That the petitioner was retained by the respondent not on account of her exemplary performance but actually the retention was on *ex-gratia* basis. That the petitioner failed her bar examinations whilst serving as a pupil on three different occasions and Mr Duncan Oketch advocate, who worked for the respondent pleaded for the petitioner to be retained until she completed her bar exams.
20. That the petitioner passed her exams on her third attempt and was admitted as an advocate and on or about December, 2016. That the petitioner was subsequently offered employment as an associate II in January, 2017. That the petitioner's performance has never been exemplary. That as a matter of fact, she is slightly below average.
21. That the petitioner was offered a new contract dated 29/12/2017 since her previous contract expired on 31/12/2017. That she was the only lawyer in the firm at the time and the firm could not afford to hire another lawyer. That the petitioner's salary was not increased in the renewed contract.



22. That it is not true that the employment of the petitioner was terminated on account of her pregnancy. That the termination was because the firm could no longer afford to pay her and other employees due to financial constraints.
23. That in June, 2016, the firm was not able to pay salaries on time as shown in a staff memo dated 6/7/2016 attached to the replying affidavit.
24. That again in August, 2016, the firm was unable to pay salaries on time and an internal memo dated 5/9/2016 was issued to this effect.
25. That by a letter dated 31/10/2016, the Chairman of the respondent informed all advocates in the firm that the respondent was experiencing financial difficulties.
26. That the deponent by a letter dated 7/11/2016, informed the Chairman that the respondent was in the red to the tune of 9,000,000 Kenya Shillings. The chairman issued a memorandum dated 11/11/2016 to all staff indicating new austerity measures to ensure that the respondent did not collapse.
27. That these difficulties caused frequent late payment of salary and in fact in November, 2016, the salary of the petitioner was paid in instalments.
28. That on 29/2/2016, the respondent closed its Mombasa branch and laid off three (3) employees.
29. That a total of nine employees were laid off due to these financial difficulties. One other employee resigned.
30. That the petitioner's employment was not terminated on account of pregnancy. That the petitioner never applied for maternity leave as required under the law and in practice. That no such leave was approved as only the Chairman could do so.
31. That the petitioner's termination was not a redundancy since her post was not abolished. It is only that the respondent could not afford to pay the petitioner though there was need for the job to be undertaken.
32. That the petitioner has not proved that she was discriminated upon on grounds of pregnancy or at all.
33. That the Advocate who was eventually hired by the respondent when its finances improved has actually applied for paid maternity leave and was due to proceed for maternity leave as shown in a letter dated 18/3/2019 attached to the affidavit.
34. That at the time of the petitioner's termination, she was the only Advocate working for the respondent and the respondent therefore did not have a choice as to whom to terminate. The question of criteria does not arise at all.
35. That the petitioner has confirmed that she was given a fair hearing before the termination. She confirmed that she held several meetings with the chairman in which the question of the termination of her employment was dismissed. The petition has no merit and it be dismissed.
36. M/s Lilian Nyaga filed a 2nd replying affidavit in which she deposes that she is an advocate of the High Court of Kenya and joined the respondent on 29th June, 2018. That at the time, there was no other lawyer working for the respondent.
37. That she has since applied for maternity leave from 11th January, 2019 which leave has been approved by the respondent and she would resume work on 16th October, 2019.



38. That she has been treated by the respondent with respect and dignity and that she has felt no discrimination at all in the firm.
39. The petitioner filed a supplementary affidavit sworn to on 24/6/2019 in which she joins issue with the deponents of the replying affidavits. The petitioner states that the allegations made by Moses in paragraphs 4 to 7 are baseless and they be disregarded. That there has been no performance review conduct on her work by the respondent. That it is apparent that the respondent terminated her employment and proceeded to hire a new advocate and therefore it is not true that the respondent could not afford to pay for her services.
40. That there had not been any communication after the employment of the petitioner that the petitioner faced financial difficulties. That if indeed that was the case, the respondent should have followed the procedure set out under section 40 of the Employment Act, 2007. There is no proof that any of the annexed memos were received by the staff including the petitioner. The petitioner denies having been paid salary in instalments as alleged by Moses or at all. That in any event all the financial difficulties deposed to by Moses occurred in the year 2016 before the respondent employed the petitioner. There is no single evidence presented by the respondent regarding financial constraints at the time of her termination in the year 2018.
41. If the respondent deposes that the termination was not due to redundancy, and not due to pregnancy then what was the reason for termination?
42. The petitioner reiterated that she served the letter of application of maternity leave on Mr Moses Mpuria via email.
43. The petitioner reiterates all her grounds for the petition and prays to be awarded accordingly.
44. That parties filed written submissions and the issues for determination are:-
 - (i) Has the petitioner proved that the termination of her employment was as a result of discrimination on grounds of pregnancy?
 - (ii) If the answer to (i) above is in the negative, was the termination of the employment lawful, fair and procedural?
 - (iii) Is the petitioner entitled to the reliefs sought?

Determination

45. The petitioner seeks a declaration that the termination of her employment was based on her pregnancy, and therefore discriminatory, unfair, unlawful and in violation of the Employment Act, 2007, the contract of Employment, and the Constitution of Kenya.
46. Section 5(3) of the Employment Act, 2007 specifically prohibits any employer from discriminating directly or indirectly, against an employee or prospective employee or harass an employee on grounds of “(a)pregnancy...”
47. This suit is a typical employment dispute which ought to be brought by way of a memorandum of claim in terms of the aforesaid provision.
48. Article 27 elevated the matter of discrimination on grounds of pregnancy to the Bill of Rights in the Constitution of Kenya, 2010.
49. This has seen litigants approach the Court on the issues of discrimination at the work place by way of a statement of claim under the Employment Act, 2007 or by a constitutional petition under article 23



of the Constitution of Kenya, 2010. Whichever way a litigant follows, the primary onus of proof on the alleged facts lie with the claimant or the petitioner in terms of sections 107 and 108 of the *Evidence Act*, cap 80 Laws of Kenya.

50. The fact of employment of the petitioner by the respondent from 1st January, 2017 to 31st December, 2017 as an advocate, Associate II and a further renewal of the contract from 1st January, 2018 to end on 31st December, 2018 is not in dispute. It is also not in dispute that upon renewal of the contract of employment on 1st January, 2018, the employment of the petitioner was terminated three months later by a letter dated 1st March, 2018 effective on 31st March, 2018.
51. What is in dispute is the reason for the termination and whether the termination was lawful or not.
52. The petitioner has deposed that at the time of the renewal of contract on 1/1/2018, she was pregnant and that few days later on or about the 26th January, 2018, the petitioner informed the respondent that she was pregnant and that she intended to proceed for her monthly leave from the 5th March, 2018 to 5th June, 2018. That the said leave was duly approved but subsequently the Chairman and founder of the respondent, Hon Kithure Kindiki, rescinded the paid leave offered to the petitioner; cajoled the petitioner to accept unpaid leave and when she insisted on her right to paid maternity leave, Hon Kindiki, hinted to her that her employment would be terminated unless she changed her mind on the issue of paid maternity leave and when she persisted on her right she received a notice of termination of her employment written by Hon Kithure Kindiki dated 1/3/2018, to take effect on 31st March, 2018. It is opportune to note that the notice of termination was made and dated a few days to the date the petitioner was due to leave for her maternity leave.
53. Hon Kithure Kindiki the person alleged to have cajoled the petitioner to accept proceeding on unpaid maternity leave and who wrote a letter of termination of employment of the petitioner upon her refusal to accept unpaid maternity leave did not find it fit to swear any affidavit refuting the extensive deposition by the petitioner on the matter.
54. The replying affidavit by Moses Mpuria, the Director, of Finance, Administration and Strategy of the respondent failed to answer these facts set forth by the petitioner against Hon Kithure Kindiki, the Chairman and founder member of the respondent.
55. Mr Moses Mpuria did not lay the basis of his knowledge of matters discussed in meetings held between the petitioner and Hon Kindiki. Mr Mpuria did not depose that he attended any of the meetings held between the Petitioner and the Chairman in which the veiled threat of termination of employment of the petitioner if she refused to take unpaid maternity leave were made.
56. The affidavit by Lilian Nyaga, who was employed apparently to replace the petitioner after her termination did not take this matter any further.
57. Mr Mpuria presented a most tenuous defence of the respondent that the respondent faced financial difficulties and therefore was unable to pay the salary of the petitioner and decided to terminate her employment even though the respondent did not declare the petitioner redundant.
58. Mr Mpuria presented letters written in 2016, before the petitioner was employed by the respondent. No letter was produced by the respondent regarding financial constraints in the period 2017 - 2018 when the petitioner worked for the respondent.
59. The petitioner has proved on a balance of probabilities that the respondent terminated her employment on account of her pregnancy and persistence that she was to take a statutory three (3) months paid maternity leave.



60. The petitioner has demonstrated that, even if the termination of the petitioner, which is denied was due to financial constraints, the respondent did not follow the procedure for declaration of redundancy under section 40 of the *Employment Act*, 2007.
61. The respondent did not give a one month notice of redundancy to the petitioner and the Labour Officer. The respondent did not pay the petitioner severance pay for the period served. The respondent did not pay the petitioner in lieu of leave days not taken and in lieu of one month notice period.
62. Indeed, the petitioner having served the respondent upto the time she was due for maternity leave was entitled to paid maternity leave for a period of three (3) months. This amount is payable despite the unlawful termination of the employment of the petitioner on account of pregnancy.
63. The answer to the first issue above is therefore in the affirmative. The court need not explore the 2nd issue above, since the evidence by the respondent that the termination of the employment of the petitioner was due to financial constraints is clearly untenable. The respondent immediately replaced the petitioner with M/s Lilian Nyaga upon her termination.
64. The court finds and declares that the respondent violated section 5(3) (a) of the *Employment Act*, 2007 read with article 27(4) of the Constitution of Kenya, 2010 for terminating the employment of the petitioner on account of her pregnancy. The conduct by the respondent was discriminatory, unfair, and unlawful.
65. The court finds that the petitioner in addition to the payment of compensation and terminal benefits, set out in the petition is also entitled to an award of exemplary damages for the violation of her statutory and constitutional right not to be discriminated and/or treated differently from other persons on account of her pregnancy.
66. This horizontal discrimination was recognized by this court in the Industrial Court at Nairobi, Cause No 1161 of 2020 *VMK v CUEA* in which the court awarded the claimant Kshs 5,000,000 as general damages for discrimination at the work place on account of HIV and Aids and pregnancy.
67. The court in that case considered the case of *Daniel Musinga t/a Musinga & Co Advocates v Nation Newspapers Limited* [2000] eKLR in which court stated whilst awarding the plaintiff Kshs 10,000,000 general damages for defamation that:-

“The court has to look at the whole conduct of the parties before the action, after the action and in compensatory damages such sum, as will compensate him for the wrong he has suffered. An award of damages must cover injured feelings, the anxiety and uncertainty, undergone during the court trial.”
68. In the present case the petitioner lost 9 months of employment and means of livelihood on account of pregnancy and at her hour of need, when she needed those finances most, for prenatal and postnatal care. The petitioner is entitled to compensation for the job loss in terms of section 49(1) (c) and (4) of the *Employment Act*, 2007.
69. The concerted defence by the respondent, which is clearly devoid of any merit is an aggravating factor in this suit. The petitioner did not contribute to the termination. The petitioner had served faithfully for a period of two (2) years.
70. The petitioner suffered psychological torture and framed up accusations during this trial. The conduct by the respondent is egregious. The petitioner was not paid terminal benefits nor was she compensated for the job loss. The petitioner lost prospects of career progression in a good law firm on unjust grounds. The petitioner earned Kshs 92,149 per month in the renewed contract. The nine months lost



in the renewed contract included the three month maternity leave period. The court has considered the Supreme Court decision in *Kenfright (EA) Limited v Benson K Nguti* [2019] eKLR in which the court upheld a 12 months' salary compensation for unfair termination of employment. Considering all the circumstances of this case the court awards the claimant the equivalent of six months' salary in compensation for the unlawful, and unfair termination of employment in the sum of Kshs (92,149 x 6) 552,894).

71. In addition, the court having found that the respondent violated the Constitutional right of the petitioner not to be discriminated on grounds of pregnancy awards exemplary damages to the claimant in the sum of Kshs 1,500,000.

72. In the final analysis, judgment is entered in favour of the petitioner against the respondent as follows:-

- (i) Equivalent of six (6) months compensation for unlawful and unfair termination of employment in the sum of Kshs 552,894.
- (ii) Kshs 129,008.60, in *lieu* of untaken leave days.
- (iii) One month salary in *lieu* of notice – Kshs 92,149
- (iv) Exemplary damages for violation of the petitioner's rights in the sum of Kshs 1,500,000
Total award – Kshs 2,274,051.60
- (v) Certificate of service to be provided within 30 days of judgment.
- (vi) Interest at court rates from date of judgment till payment in full.
- (vii) Costs of the suit.

DATED AND DELIVERED AT NAIROBI (VIRTUALLY) THIS 30TH DAY OF SEPTEMBER, 2021.

MATHEWS N. NDUMA

JUDGE

APPEARANCES

Rachier & Amollo LLp for the petitioner

Benson Njuguna & Co. Advocates for the respondent

Ekale – Court clerk.

