

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT MERU

CAUSE NO. 50 OF 2018

(Formerly Nyeri ELRC 154 of 2018)

ANTHONY MBAABU MUGWIKI & 7 OTHERS.....CLAIMANTS

VERSUS

RUIRI FARMERS CO-OPERATIVE SOCIETY LIMITED....RESPONDENT

JUDGMENT

1. The claim proceeded as an undefended cause. The Claimants Anthony Mbaabu Mugwika the secretary manager, Ann Kendi Ndegwa the cashier, Silas Kimathi the society driver, Daniel Kaume M'Ataya a factory manager, John Nteere M'Ndegwa a factory manager, Beatrice Gakii Kaibunga a cherry recorder, Justus Mutea M'Ikunyua a turn man and Daniel Karithi Ncebere a night watchman assert that the claim is for unpaid salary arrears. They aver that they have served the Respondent with great diligence, devotion, dedication and loyalty and there are no written warnings or any disciplinary actions taken against them. They claim salary arrears from 2001 till 2017 amounting to Kshs. 11,528,664.50; general damages for the unlawful, wrongful and illegal denial of salary arrears and allowances; any other relief the court may grant and costs of the suit plus interest. Mr. Anthony Mbaabu Mugwika testified on behalf of the Claimants herein and stated that the sums were owed for the unpaid salary and allowances.

2. The Claimants are employees of the Respondent serving in various positions. They attached the Inspection Report of 16th January 2016 by the Co-operative Auditors Mr. Zachary Njeru and Mr. Nicholas Kariuki which paints a stark picture of the situation at the Respondent. The Respondent is reeling in debt and as per the findings of the auditors have debts owed to the current employees and former employees including a judgment sum from the Nyeri Labour Relations Court. A total of Kshs. 28,072,286/- was owed as at December 2016 as salary arrears to the present and former staff. There is also a surcharge of Kshs. 1,129,892/- owed to the Commissioner of Co-operatives by the staff. The auditors recommended that the society should come up with a good retirement scheme and also utilize the idle land to generate revenue. The audit report proposed the excision of some of the parcels for sale to generate income to offset the debts. The Claimants also attached their letters of appointment in support of the claim.

3. The Claimants proved on a balance of probabilities that they are owed sums as salary arrears. The tabulation presented to court on 1st February 2019 sets out the itemized amounts each of the 8 Claimants is to receive. The Respondent is therefore liable to pay salary as shown in the audit report and the tabulation made before the court. The said tabulation filed on 1st February 2019 shall form part of the Judgment of this Court. The Claimants are also entitled to costs of the suit.

It is so ordered.

Dated and delivered at Meru this 6th day of February 2019

Nzioki wa Makau

JUDGE