



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO 869 OF 2015**

ROGERS OMOSA MATUNDURA.....1<sup>ST</sup> CLAIMANT  
RUTH SARANGE MAGANGI.....2<sup>ND</sup> CLAIMANT  
JOSHUA MUTHAMA KYALO.....3<sup>RD</sup> CLAIMANT  
JARED MARANGA AISUGA.....4<sup>TH</sup> CLAIMANT  
SHILAH KWAMBOKA MALWA.....5<sup>TH</sup> CLAIMANT  
GEDEON MWANGI.....6<sup>TH</sup> CLAIMANT  
ELIZABETH NDUNGE MUTUA.....7<sup>TH</sup> CLAIMANT  
ELIZABETH MUTHINJI NJUGUNA.....8<sup>TH</sup> CLAIMANT  
JOHN JUMA WANDERA.....9<sup>TH</sup> CLAIMANT  
PAMELA OUMA OTIENO.....10<sup>TH</sup> CLAIMANT  
JUSTINE ONGORI ONCHURU.....11<sup>TH</sup> CLAIMANT  
EVANS BARONGO NYAKUNDI.....12<sup>TH</sup> CLAIMANT

VS

MILLS INDUSTRIES LTD.....1<sup>ST</sup> RESPONDENT  
TAILORS AND TEXTILES WORKERS UNION.....2<sup>ND</sup> RESPONDENT

**JUDGMENT**

**Introduction**

1. The Claimant's claim brought by a Memorandum of Claim dated 19<sup>th</sup> May 2015 and filed in court on 21<sup>st</sup> May 2015, is for payment of redundancy benefits.
2. None of the Respondents filed a response. The matter therefore proceeded as an undefended cause. The 1<sup>st</sup> Claimant, Rogers Omosa Matundura testified on his own behalf and on behalf of his co-claimants.

**The Claimants' Case**

3. The Claimants state that they were employed by the 1<sup>st</sup> Respondent on diverse dates as machine operators. They aver that they were

declared redundant on 12<sup>th</sup> September 2014.

4. The Claimants further state that they were all members of the 2<sup>nd</sup> Respondent. Sometime in 2010 the Claimants, alongside other employees of the 1<sup>st</sup> Respondent went on strike.

5. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents thereafter signed a return to work formula by which the following was agreed upon:

- a) That the workers would return to work without loss of benefits;
- b) That contracts issued to the workers would be withdrawn;
- c) That salary underpayments would be made good.

6. The Claimants plead that the 1<sup>st</sup> Respondent failed to pay the salary arrears arising out of underpayment. The Claimants were subsequently declared redundant but were not paid their dues.

7. The 2<sup>nd</sup> Respondent reported a dispute at the Ministry of Labour but there was no agreement at the conciliation stage. The Claimants accuse the 2<sup>nd</sup> Respondent of failure to pursue their case.

8. The Claimants claim against the 1<sup>st</sup> Respondent is for the sum of Kshs. 4,303,772 being final benefits. They also claim house allowance from the 2<sup>nd</sup> Respondent.

#### **Findings and Determination**

9. In advancing their case, the Claimants produced a tabulation schedule made up of underpayment, severance pay, house allowance and accrued leave. They however failed to provide a basis for the respective figures used in their tabulation. The Court was therefore unable to verify the authenticity of the figures which were literally thrown at its face.

10. In the circumstances, the only conclusion is that the Claimants have failed to prove their claim which therefore fails and is dismissed.

11. I make no order for costs.

12. Orders accordingly.

**DATED AND SIGNED AT MOMBASA THIS 27<sup>TH</sup> DAY OF MAY 2019**

**LINNET NDOLO**

**JUDGE**

**DELIVERED AT NAIROBI THIS 31<sup>ST</sup> DAY OF MAY 2019**

**MAUREEN ONYANGO**

**JUDGE**

Appearance:

Mr. Mageto for the Claimants

No appearance for the Respondents