



**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**

**RULING**

1. This claim proceeded as an undefended cause. The Claimants, namely, 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 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 as well as costs of the suit plus interest. In testimony adduced by the Claimants herein, there is proof that there is a sum owed to former and current staff. The Inspection Report of 16th January 2016 by the Co-operative Auditors Mr. Zachary Njeru and Mr. Nicholas Kariuki paints a picture of the financial situation at the Respondent and from it, I discern that the Respondent is reeling under massive debt. According to the auditors, there are debts owed to the current and former employees of the Respondent including a judgment sum from the Nyeri Labour Relations Court in another case concluded in 2017. A total of Kshs. 28,072,286/- was stated to be owed as at December 2016 in 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.

2. In my view, in order to make a proper determination of the matters germane to this suit, there is need for the Auditors to give a breakdown of the sums tabulated as being due to the current staff in the sum of Kshs. 10,571,510/-. The Auditors are to avail the breakdown for each of the 8 Claimants herein within 30 days of today's date.

It is so ordered.

**Dated and delivered at Meru this 7<sup>th</sup> day of November 2018**

**Nzioki wa Makau**

**JUDGE**