

REPUBLIC OF KENYA

IN THE EMPLOYMENT & LABOUR RELATIONS

COURT OF KENYA AT NAIROBI

SUIT NO. 1789 OF 2015

GEORGE OCHIENG' ODODA & OTHERS.....CLAIMANTS

VERSUS

1. KENYA RAILWAYS

2. KENYA RAILWAYS STAFF RETIREMENT

BENEFITS SCHEME.....RESPONDENTS

RULING

1. This case is from 2009. It is 9 years old heading to 10 years. The Honourable the Chief Justice has directed that old cases such as this one be disposed of. That is actually the reason I have left my station Nyeri to sit in Nairobi this week. The aim is to ensure that parties get justice and the cases are concluded instead of the suits remaining on our books with no progress. The Claimants herein are not ready. The 2nd Respondent is opposed to delaying the case further and offers that if the court vacates the orders which bar it from distressing for rent then they would be willing to allow the Claimants to put their house in order. The 1st Respondent though also ready to proceed agrees that the suit is untidy and proper house-keeping is necessary.

2. The court is minded to reject the application to adjourn as the Claimants are enjoying injunctive orders and are not paying rent. Without making any findings on the issue which will be for trial, I will vacate the orders for the non-distress. The Court (Ndolo J.) in 2017 gave some respite on the rent issue. In my view, though the issue will be ventilated in the trial, the 2nd Respondent may proceed to distress and obtain rent pending hearing. The file will be placed before Maureen Onyango J. the Principal Judge of this Court on Wednesday 16th January 2019 for taking of a hearing date. The Claimants to put their house in order before then and pay rent in any event if they do not wish to be evicted.

It is so ordered.

Dated and delivered at Nairobi this 17th day of December 2018

Nzioki wa Makau

JUDGE