



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS
COURT AT NAIROBI
CAUSE NO. 307 OF 2014

(Before Hon. Lady Justice Hellen S. Wasilwa on 20th February, 2017)

PETRONILLA MUKHAVICLAIMANT

VERSUS

MOSES ANYANGU.....1ST RESPONDENT

RABECA ANYANGU.....2ND RESPONDENT

JUDGMENT

1. The Claimant herein Petronilla Mukhavi filed this claim on 3/3/2014 in person seeking damages for unlawful termination plus payment of termination dues.
2. It is her case that she was employed by the Respondent as a domestic worker in July 2012. She avers that she worked truly from 6 am to 10 pm without any overtime pay but was accommodated in Respondent's premises. In March 2013, the 1st Respondent's wife passed away and at the end of the month, the 2nd Respondent reduced her salary to 5,000/= illegally and unlawfully. She also avers that she never went for any leave.
3. She was thereafter dismissed without any notice. She avers that she was underpaid and worked overtime too and seeks to be paid the salary underpayments of Kshs.9,780/= per month, leave of 21 days, salary in lieu of notice, service pay, holiday pay plus damages for unlawful termination.
4. In her evidence in chief, the Claimant told Court that she was employed by Sara – the 1st Respondent's wife and mother to 2nd Respondent. However the said Sara passed on, in 2013 leaving her with the 2nd Respondent who had a small baby. It is then that 2nd Respondent reduced her pay to 5,000/= and later terminated her.
5. In cross examination, the Claimant said she stopped working in April 2014 when 2nd Respondent moved to a single room and sacked her.
6. 1st Respondent told Court that the late Sara was his estranged wife but he never stayed with her and never employed the Claimant and has no employer – employee relationship with Claimant. He says he was not even staying in the same house with the late wife and that his late wife was working and he was not even providing for her, only occasionally visited them.

7. The 2nd Respondent said that the late Sara was her mother and she is one who had employed Claimant. After her demise she could not afford to keep the Claimant nor pay her salary so she initially gave her 5,000/= and thereafter let her go as she had no money to pay her. She says she never employed the Claimant but her late mother did so.

8. I have examined all the evidence of both parties plus submissions filed herein.

9. It is apparent that the Claimant was employed by one Sara (now deceased) who was wife and mother to the Respondents respectively. The 1st Respondent had no employment relationship with the Claimant. The 2nd Respondent was staying with her late mother who had employed the Claimant but in the same vein, it cannot be said that she had an employment relationship with the Claimant.

10. It is apparent that there is no claim against the 2 Respondents and any claim against them cannot lie. I find the case below the standard expected and I dismiss this claim accordingly.

11. Each party will meet its own costs.

Read in open Court this 20th day of February, 2017.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Nganga holding brief for Waiganjo for Claimant – Present

No appearance for Respondent