



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**

**AT NAIROBI**

**CAUSE NO. 903 OF 2017**

- 1. NAOMI CHEPKIRUI NG'ASURA**
- 2. ISAAC WARUTERE GITONGA**
- 3. FRIDAH MUTELE MUTHIANI**
- 4. KIPTOO AMOS KIPRUTO**
- 5. JUSTUS MUTUKI MBURU**
- 6. DANIEL MAMATI WEKESA**
- 7. GIDEON KIBYEGON BETT**
- 8. CATHERINE NJOKI NGARI**
- 9. SIMON MWANGANGI KILONZO**
- 10. PHYLIS WANJA**
- 11. FRANCIS KARURU KARIUKI**
- 12. CHRISTOPHER MUINDEMUTHUSI**
- 13. ISPHAN NGUGI MUNGAI**
- 14. SHELMITH WANGECHI GITAHI**
- 15. SAMUEL MAHCAIRA WAIGURU**
- 16. SIMON K. MUNGUTI**
- 17. DAPHON WAKUTHII KATHUNBI**
- 18. CATHERINE WAIRIMU KIBERI**
- 19. DAVID GATHOGO MUREITHI**
- 20. JOEL WAMAE KARANJA**

**21. SAMUEL TOROITICH RUTTO**

**22. RHODA MAKENA KABURU**

**23. ESTHER WANJIRU GITUMA**

**24. JAMES M. NDANI**

**25. MARY W. WACHIRA**

**26. IAN KIPLAGAT**

**27. BENARD ABUYA MOKAYA**

**28. PETER THING'O NJUGIRIA**

**29. SARAH WANJIRU.....CLAIMANTS**

**VERSUS**

**KARRYMART LIMITED.....RESPONDENT**

Mr. Kuloba for claimants

Mr. Wathuta for respondents

**JUDGMENT**

**1.** The claimants by a statement of claim dated 9<sup>th</sup> May 2017 seek the following orders:-

- a) A declaration that the respondent has breached contracts of employment of the claimants and has violated provisions of the Employment Act, the Fair Administrative Actions Act, and Articles 41 and 47 of the Constitution of Kenya, 2010.
- b) Compensation to each of the claimants as particularized under paragraph 13 and in the Annexure 1 attached to this statement of claim.
- c) Damages for wrongful termination equivalent of 6 months' salary for each claimant to be assessed by the court.
- d) Damages for the wrongful reduction in salaries of the claimants on 1<sup>st</sup> August 2016.
- e) Certificate of service to be issued forthwith to each claimant.
- f) Costs of suit and interests.

**2.** No liquated amount is sought in the pleadings.

**3.** The claimant subsequently filed a notice of motion application dated 16<sup>th</sup> May 2017 seeking judgment on admission in the sum of Kshs.3,041,002/= be paid to the claimants in accordance with the calculations in annexure 2 attached to the statement of claim being computation of arrear salary by the respondent.

**4.** The statement of claim and summons to enter appearance were served on the respondent. The respondent appointed Kiragu Wathuta company advocates who filed notice of appointment on 17<sup>th</sup> July 2017.

5. To date, the respondents have not filed any statement of defence to the claim, notwithstanding that, Mr. Wathuta appeared before court on 24<sup>th</sup> July 2017 and was granted 21 days within which to file a replying affidavit to this application. None was filed even at the time the application was argued by both counsel on 18<sup>th</sup> September 2017.

6. The court relies on the uncontroverted supporting affidavit of Naomi Chepkirui Ng'asura to find that the respondent proposed to the Labour Officer to pay to the claimants a sum of Kshs.3,041,002/= by instalments from April 2017. The sum is contained in a computation by the respondent annexed to the statement of claim and marked annexure 2.

**7. The court finds that the claim is partly admitted to the extent of Kshs.3,041,002/= and grants judgment to the claimants as against the respondent accordingly.**

8. The rest of the claim to proceed to formal proof on a date to be fixed by court.

9. Costs in the cause.

**Dated, Signed and Delivered on this 24<sup>th</sup> Day of November 2017**

**MATHEWS NDERI NDUMA**

**JUDGE**