



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**  
**CAUSE NO 276 OF 2014**

**PETER KIMEU MOSE.....1ST CLAIMANT**  
**JOSEPH NTHIWA NZIOKI.....2ND CLAIMANT**  
**ANTHONY KARIUKI GICHOHI.....3RD CLAIMANT**  
**SYLVESTER KYALO MUTIO.....4TH CLAIMANT**  
**ANNE WAMBUI WANYOKIE.....5TH CLAIMANT**  
**CYRUS MWAURA MBUGUA.....6TH CLAIMANT**  
**LILIAN WAMBUI GACHOKA.....7TH CLAIMANT**  
**WILLIAM NTHIANI KITHUKA.....8TH CLAIMANT**  
**STANLEY GITHINJI MWANGI.....9TH CLAIMANT**  
**JAMES ANGULU NDAKALA.....10TH CLAIMANT**  
**MARTIN NZIOKA KITUMBI.....11TH CLAIMANT**  
**JUDY MWERU GATHOGO.....12TH CLAIMANT**  
**FRANCIS MUNYEVU NDONYE.....13TH CLAIMANT**  
**JOSEPH KARIUKI RUGIRI.....14TH CLAIMANT**

**VS**

**MANG HOTEL.....1ST RESPONDENT**  
**TIMOTHY KINUTHIA.....2ND RESPONDENT**

**RULING**

1. On 19th June 2015, I delivered an award in favour of the Claimants in the following terms:
  - a) Kshs. 3,200 payable to each Claimant being the cost of two (2) shirts, two (2) trousers and one

(1) pair of shoes per each year of employment from the date of employment to the date of termination;

b) House allowance calculated at 15% of the agreed last salary from the date of employment until the date of termination;

c) The awards under (a) and (b) above to be tabulated by Counsels for the parties and paid to the Claimants within the next thirty (30) days from the date of this award;

d) Interest at court rates from the date of the award until payment in full;

e) Costs of the case.

2. Pursuant to the orders of the Court, Counsels for the parties tabulated and assessed the decretal sum at Kshs.4,417,422.15. The Respondent subsequently filed a Notice of Motion dated 14th August 2015 asking to be allowed to pay the decretal sum in twenty four (24) monthly installments.

3. The Respondent's application is based on the following grounds:

a) That on 19th June 2015 the Court made an award in favour of the Claimants and against the Respondent, which award has been jointly assessed at an all inclusive sum of Kshs.4,417,422.15;

b) That the Respondent does not intend to appeal the award;

c) That the Respondent is not opposed to settling the award but seeks leave to liquidate the decretal sum by way of twenty four (24) monthly installments. The inability to settle the entire sum at once is due to the fact that the Respondent closed down at the point of lodging of this suit, and as such is not trading nor making any profits/income to enable it settle the decretal sum;

d) Compelling the Respondent to settle the full decretal sum at once would cause it undue financial strain and lead to high and obvious risk of default which is not a desire effect herein;

e) It is in the interest of justice and equity to grant the orders sought;

f) That the application has been filed without undue delay.

4. In a supporting affidavit sworn by Monica Kinuthia, a Director of the 1st Respondent she states that the 1st Respondent is willing to settle the decretal sum as follows:

a) Initial deposit of Kshs. 400,000;

b) The balance of the decretal sum in Twenty Four (24) equal monthly installments of Kshs.167,000.00 each.

5. In a replying affidavit sworn by the 1st Claimant, Peter Kimeu Mose on 24th September 2015, he states that this application is a waste of judicial time. Kimeu further depones that the Respondent has assets and is engaged in other businesses and is therefore able to settle the decretal sum.

6. This award is in favour of fourteen (14) Claimants and taking the agreed decretal sum of Kshs.4,417,422.15, the average amount payable to each Claimant would be in the region of Kshs. 300,000.00. Spreading this amount over a period of 24 months translates to a monthly sum of Kshs.12,500.00 which is utterly unreasonable. The Claimants were rendered jobless through no

fault of their own and to grant the Respondent's prayer would amount to denying them the fruits of a legitimate award in their favour.

7. The Respondent did not deny that it has assets and businesses as deponed by the 1st Claimant and the Court was not convinced that it is indeed unable to settle the decretal sum.

8. For the foregoing reasons, the Respondent's application is dismissed with costs to the Claimants.

9. Orders accordingly.

**DATED SIGNED AND DELIVERED IN OPEN COURT AT NAIROBI THIS**

**22ND DAY OF JANUARY 2016**

**LINNET NDOLO**

**JUDGE**

**Appearance:**

Ms. Ndirangu for the Claimants

Mr. Njoroge for the Respondent