



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI**

**CAUSE NO.23 OF 2015**

**ANN GATIRIA NJAGI.....1<sup>ST</sup> CLAIMANT**  
**BONIFACE KIMATHI MWIRIGI.....2<sup>ND</sup> CLAIMANT**  
**SEVELINO M. CHABARI.....3<sup>RD</sup> CLAIMANT**  
**JACKLINE KARWITHA.....4<sup>TH</sup> CLAIMANT**  
**JOB MWITL.....5<sup>TH</sup> CLAIMANT**  
**DORIS KATHAMBI.....6<sup>TH</sup> CLAIMANT**  
**DENNIS MWENDA MWITL.....7<sup>TH</sup> CLAIMANT**  
**ERICK MWENDA.....8<sup>TH</sup> CLAIMANT**

**VERSUS**

**AMBASSADOR GROUP OF COMPANIES.....RESPONDENT**

(Before Hon. Justice Byram Ongaya on Friday, 7<sup>th</sup> October, 2016)

**JUDGMENT**

The claimants filed the memorandum of claim on 24.02.2015 in person. Their case is that they were each employed by the respondent on diverse dates sometimes in 2013 and 2014. They served until 31.03.2014 and the respondent decided to stop paying the salaries except that the 1<sup>st</sup> claimant was still in the respondent's employment as at the time of hearing the suit. The other claimants left employment on or about 31.03.2014 due to frustrations flowing from the respondent's failure to pay the outstanding salaries. The claimants prayed for judgment against the respondent for:

- a) Payment of salaries as calculated in the memorandum of claim.
- b) Payment of house allowance.
- c) Payment of the money with interest.
- d) Payment of costs of the suit.

The claimants' case was that they were paid salaries by the respondent through their respective bank accounts at Equity Bank and the relevant bank statements were filed in court. The claimants relied on the affidavits on record to support their case. The 4<sup>th</sup>, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 5<sup>th</sup> claimants testified to support their respective cases.

The respondent filed the statement of defence on 17.03.2015 through Muthui Kimani & Company Advocates. The defendant denied ever employing the respondents and denied the claimant's claims and prayers.

The **1<sup>st</sup> issue** is whether the respondent employed the claimants. The 1<sup>st</sup> to 5<sup>th</sup> claimants have given oral and affidavit evidence explaining how they were employed by the respondent. The respondent has not filed replying affidavits or given oral evidence to deny any of the claimants' evidence. The court returns that the claimants were employed by the respondent as claimed for by the 1<sup>st</sup> to 5<sup>th</sup> claimants.

The **2<sup>nd</sup> issue** is whether the claimants are entitled to remedies as prayed for. The testimony shows that the claimants worked with dedication until the respondent frustrated their efforts by not paying their respective monthly salaries. The claimants have established their claims and are awarded as prayed for. As the 1<sup>st</sup> to 5<sup>th</sup> claimants have succeeded in their respective claims, each is awarded Kshs. 15, 000.00 in costs.

The respondent purported to submit that the claimants had failed to properly identify it as their employer. The court returns that such was a belated afterthought. The affidavit of service filed on 17.03.2015 is clear that one Joseph Mwiti being the respondent's employee was served on 03.02.2015 with the notice of summons and the statement of claim. The belated objection will therefore fail especially that the 1<sup>st</sup> claimant's evidence that she was still in the respondent's employment was not challenged at all.

In conclusion, judgment is hereby entered for the claimants against the respondent for:

a) The respondent to pay the 1<sup>st</sup> claimant **Kshs. 133, 750.00**; the 2<sup>nd</sup> claimant **Kshs.128, 350.00**; the 3<sup>rd</sup> claimant **Kshs.125, 650.00**; the 4<sup>th</sup> claimant **Kshs.46, 170.00**; and the 5<sup>th</sup> claimant **Kshs.121, 600.00** by 01.12.2016 failing interest to be payable thereon at court rates from the date of the suit 24.02.2015 until full payment.

b) The decree to issue accordingly.

**Signed, dated and delivered** in court at **Nyeri** this **Friday, 7<sup>th</sup> October, 2016.**

**BYRAM ONGAYA**

**JUDGE**