



REPUBLIC OF KENYA

EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 1860 OF 2011

(BEFORE HON. JUSTICE HELLEN S. WASILWA ON 18TH JUNE, 2015)

SIMPSON NTWIGA M'IRERI.....CLAIMANT

VERSUS

NEW MUTHAMBI FARMERS CO-OPERATIVE SOCIETY ...RESPONDENT

JUDGMENT OF THE COURT

1. The Claimant herein Simpson Ntwiga filed his Statement of Claim on 4/11/2011 through the firm of Munga Kibanga & Company Advocates. Issue in dispute is the failure by the Respondent to pay his terminal benefits.

Claimant's case

2. The Claimant's case is that he was employed by the Respondents as a Secretary Manager for 31 years until he retired on 30/9/2009. He avers that he executed his duties diligently and faithfully whereupon at the time of retirement his salary arrears had accrued to Kshs.761,770/= plus terminal benefits as tabulated in his **Appendix SNR-1**. He made a demand to pay to the Respondents who have refused and/or neglected to make good.

In his evidence the Claimant stated that he was paid 10,000/= after filing this case leaving 761,770/= unpaid.

He avers that the Respondents letter to him on 12/8/2011 through the Respondents lawyer P. M. Mutani & Company Advocates agreed that the Respondents owed him money and would pay him when their finances improved. He denied having been paid Kshs.349,506/=.

3. The Respondents on the other hand filed their response on 17/11/2011 in person. In their response, the Respondents stated that the Claimant worked for them as Secretary Manager until he retired on 30/9/2009 and they owed him 607,271.06 which they listed as a payable debt. They consent that they have continued to pay same and have since paid 83,351/= and they asked court to dismiss this claim.

In their oral evidence in court however, the RW1 stated that they had paid the Claimant Kshs.427,156/= in bits and that the balance is 357,705/=.

4. I have considered the averments of both parties. There is a direct admission of this claim from Respondents pleadings of Kshs.607,271/=.

The Respondents aver that they have partly paid this amount and leave a balance of Kshs.357,705/.

Despite this averment, there is no evidence of this payment except for 10,000/= admitted by the Claimant.

The Respondents have also not controverted the claim of 761,770/=. That being the case, I enter judgment for Claimant as prayed for Kshs.761,770/= less 10,000/= admitted as paid leaving a balance of Kshs.751,770/= plus costs.

It is so ordered.

Read in open Court this 18th day of June, 2015.

HON. LADY JUSTICE HELLEN WASILWA

JUDGE

In the presence of:

Jaoko holding brief for Kibanga for Claimant - Present

No appearance for Respondent