



**Gathuna v Tambulika Sacco Society Limited (Previously known as VEP Sacco Limited)
(Tribunal Case 194 of 2021) [2024] KECPT 1691 (KLR) (3 October 2024) (Judgment)**

Neutral citation: [2024] KECPT 1691 (KLR)

**REPUBLIC OF KENYA
IN THE COOPERATIVE TRIBUNAL
TRIBUNAL CASE 194 OF 2021
BM KIMEMIA, CHAIR, JANET MWATSAMA, VICE CHAIR, B SAWE,
F LOTUIYA, P. GICHUKI, M CHESIKAW & PO AOL, MEMBERS
OCTOBER 3, 2024**

BETWEEN

PETER THAIRU GATHUNA CLAIMANT

AND

**TAMBULIKA SACCO SOCIETY LIMITED (PREVIOUSLY KNOWN AS VEP
SACCO LIMITED) RESPONDENT**

JUDGMENT

1. The Claimant's case is based on the following: Statement of claim of 6/4/2021 Witness statement of 6/4/2021 Submissions of 25/9/2023.

The Claimant in his Statement of Claim was a member of the Respondent until 2019 when he wrote to the Respondent on his intention to cease being a member of the Respondent. By that time, he states that he had savings totaling to Kshs. 118,193/=.

He avers that he has made several demands but the Respondent has failed to refund him his money.

2. In his Statement, the Claimant states he started saving with the Respondent who was previously VEP Sacco Limited. He avers that he is requesting for his savings of Kshs. 118,193/=. He attached documents with the savings records and Demand Letter to prove his case.

Being a refund issue, the matter was directed to be dispensed off through Written Submissions after various mentions.

In his Written Submissions, the Claimant reaffirms his Claim of Kshs. 118,193/=.

The Claimant avers that he has filed sufficient documents to prove his case.

He brings to the attention of the court that the claim of Kshs. 118,193/= is not disputed and submits that he is entitled to the refund.



He also prays for costs of this case with interest from the year 2015 when the Claimant issued his resignation letter.

Respondent's Case.

3. The Respondent's case is based on the Statement of Defence dated 29/6/2021. In this Defence, the Respondent admits that the Claimant wrote on 7/6/2019 an intention to quit the Sacco. The Respondent denies the Claim figure of Kshs. 118,193/=.

The Respondent avers that the Claimant only indicated leaving the Co-operative and not asking for refunds.

The Respondent did not file Submissions as directed by this Court on 7/9/2023.

By the time of writing this judgement, the Respondent has not filed its Respondent's Written Submissions.

Analysis.

4. The Claimant has supported his case through relevant documents. He has filed his saving records, Notice of Withdrawal and his advocate's demand notes to the Respondent among others.

It is therefore not in dispute that the Claimant is a member of the Respondent. As regards his savings with the Respondent, it has been proven through the Account Statement of the Claimant that he had savings with the Respondent.

The Respondent only filed a Defence Statement. They did not file a Written Submission as directed by the Court.

The Respondents have not denied the Claim amount of **Kshs. 118,193/=**.

Conclusion.

5. The Claimant has provided overwhelming evidence in support of his Claim. On the other hand, the Respondent has not denied that the Claimant was its member and a depositor.

This Court therefore passes judgement in favor of the Claimant against the Respondent for:

- a. Refund of Kshs. 118,193/=.
- b. Costs of the suit.
- c. Interest on (a) at Court rates.

JUDGMENTSIGNED, DATED AND DELIVERED *VIRTUALLY* AT NAIROBI THIS 3RD DAY OF OCTOBER, 2024.

HON. B. KIMEMIA CHAIRPERSON SIGNED 3.10.2024

HON. J. MWATSAMA DEPUTY CHAIRPERSON SIGNED 3.10.2024

HON. BEATRICE SAWE MEMBER SIGNED 3.10.2024

HON. FRIDAH LOTUIYA MEMBER SIGNED 3.10.2024

HON. PHILIP GICHUKI MEMBER SIGNED 3.10.2024

HON. MICHAEL CHESIKAW MEMBER SIGNED 3.10.2024

HON. PAUL AOL MEMBER SIGNED 3.10.2024



Tribunal Clerk Mutai

No appearance by parties.

Judgment delivered in their absence.

HON. J. MWATSAMA DEPUTY CHAIRPERSON SIGNED 3.10.2024

