



REPUBLIC OF KENYA



KENYA LAW
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**DPL Festive Limited v Okuny (Civil Appeal E219 of 2024)
[2024] KEHC 13403 (KLR) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13403 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E219 OF 2024
RE ABURILI, J
OCTOBER 31, 2024**

BETWEEN

DPL FESTIVE LIMITED APPELLANT

AND

JORIM AWUOR OKUNY RESPONDENT

*(Arising from the Judgment and decree of Hon. G. N. Barasab, RM in
Kisumu MCELRC No. E067 of 2023 rendered on 7th October, 2024)*

RULING

1. The application dated 22nd October 2024 is brought under certificate of urgency. I find no urgency involved. I decline to certify it as urgent.
2. On the appeal as filed, I observe that the appeal arises from the Kisumu Chief Magistrate’s Court *Employment and Labour Relations Court vide ELRC Cause No. E067 of 2023*.
3. This court has no appellate jurisdiction to hear and determine disputes relating to Employment and Labour Relations and this is jurisdiction which is taken away expressly taken away by Article 165 (5) (b) of *the Constitution* and Article 162 (2) (a) of *the Constitution* as read with Section 12 of the *Employment and Labour Relations Court Act*. Article 165(5) (b) of *the Constitution* expressly bars the High Court from hearing and determining disputes exclusively reserved for the specialized courts established under Article 162 (2) of *the Constitution* and the Supreme Court.
4. Jurisdiction is everything without which, a court of law acts in vain. see Owners of the Motor Vessel “Lillian S” v Caltex Oil (Kenya) Ltd [1989] eKLR]. Similarly, in the case of Samuel Kamau Macharia



& another v Kenya Commercial Bank Limited & 2 others [2012] eKLR, the Supreme Court reminded us that:

“A court’s jurisdiction flows from either *the Constitution* or legislation or both. Thus, a court of law can only exercise jurisdiction as conferred by *the constitution* or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. We agree with counsel for the first and second respondents in his submission that the issue as to whether a court of law has jurisdiction to entertain a matter before it, is not one of mere procedural technicality; it goes to the very heart of the matter, for without jurisdiction, the court cannot entertain any proceedings.”

5. For the above reasons, I hereby find that the appeal as filed is incompetent and for want of jurisdiction, this appeal as filed together with the application under certificate of urgency dated 22nd October 2024 are struck out with no orders as to costs.
6. This file is closed.
7. Parties to be informed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 31ST DAY OF OCTOBER, 2024

R. E. ABURILI

JUDGE

