



**K. K. Promoters Limited v Wanjiku (Civil Appeal 23 of 2009)
[2022] KEHC 13513 (KLR) (Civ) (22 September 2022) (Directions)**

Neutral citation: [2022] KEHC 13513 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL 23 OF 2009

JN MULWA, J

SEPTEMBER 22, 2022

BETWEEN

K. K. PROMOTERS LIMITED APPELLANT

AND

GRACE WAITHERA WANJIKU RESPONDENT

DIRECTIONS

1. This is an appeal against the judgment of the Resident Magistrate, Mr AO Aminga, in Limuru SPMCC No 215 of 2005 delivered on January 13, 2009. The dispute between the parties before the trial court relates to an employment relationship between an employer and an employee.
2. In the plaint dated May 30, 2005, the respondent claimed that she was employed by the appellant as a tea picker. She sought special and general damages against the appellant herein for injuries sustained on May 3, 2005 when she was pricked by a tea wood while working at the appellant's tea farm in Limuru. She blamed the accident on the appellant's negligence. Upon the hearing and determination of the case, the defendant being dissatisfied with the outcome, appealed to this court by this appeal before me.
3. This court lacks jurisdiction to entertain the present appeal by virtue of Article 162 (2) as read with Article 165 (5) (b) of the *Constitution* and section 12(1) (a) of the *Employment and Labour Relations Courts Act*. Article 162(2) (a) reserves the jurisdiction to determine employment disputes exclusively upon the Employment and Labour Relations Court while Article 165(5) (b) expressly prohibits this court from determining disputes reserved for the said court. The jurisdiction of the Employment and Labour Relations Court is set out in section 12 of the *Employment and Labour Relations Court Act* which stipulates as follows:

“ 12. Jurisdiction of the court



1. The court shall have exclusive original and appellate jurisdiction to hear and determine all disputes referred to it in accordance with Article 162(2) of the Constitution and the provisions of this Act or any other written law which extends jurisdiction to the court relating to employment and labour relations including —
 - a. disputes relating to or arising out of employment between an employer and an employee;
 - b. disputes between an employer and a trade union;
 - c. disputes between an employers' organisation and a trade unions organisation;
 - d. disputes between trade unions;
 - e. disputes between employer organizations;
 - f. disputes between an employers' organisation and a trade union;
 - g. disputes between a trade union and a member thereof;
 - h. disputes between an employer's organisation or a federation and a member thereof;
 - i. disputes concerning the registration and election of trade union officials; and
 - j. disputes relating to the registration and enforcement of collective agreements.”

4. In the premises, I decline to take any action in respect of the appeal and down my tools in line with the celebrated case of Owners of the Motor Vessel “Lillian S” v Caltex Oil (Kenya) Ltd [1989] eKLR where the court rendered that:

“Jurisdiction is everything. Without it, a court has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law downs its tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.”

5. For the foregoing, the appeal is hereby transferred to the Employment and Labour Relations Court for hearing and determination.

Orders accordingly.

DATED DELIVERED AND SIGNED AT NAIROBI THIS 22ND SEPTEMBER DAY OF SEPTEMBER 2022.

J.N.MULWA

JUDGE.

