

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CIVIL APPEAL NO. 108 OF 2018

HENRY ANDRIKO SHIKANGA.....APPELLANT

VERSUS

WEST KENYA SUGAR CO. LTD.....RESPONDENT

JUDGMENT

1. According to the plaint filed in the primary suit, dated 28th April 2015, and amended on 30th June 2016 and 25th August 2017, the appellant herein was an employee of the respondent. That would mean that there was an employer-employee relationship between them, and the dispute before the court related to employment and labour relations. The High Court has no jurisdiction, since 2010, to handle disputes that turn on employment and labour relations, by dint of Articles 162(2) and 165(5) of the Constitution of Kenya. That would mean that I have no jurisdiction to handle the appeal herein.

2. According to the Court of Appeal, in *Phoenix of EA Assurance Company Limited vs. SM Thiga t/a Newspaper Service* [2019] eKLR (**Karanja, Gatembu & Sichale JJA**) and *Equity Bank Limited vs. Bruce Mutie Mutuku t/a Diani Tour Travel* [2016] eKLR (**Makhandia, Ouko & M'Inoti JJA**), where the High Court has no jurisdiction over a matter before it, it would have no jurisdiction, under sections 17 and 18 of the Civil Procedure Act, Cap 21, Laws of Kenya, to transfer the matter, in respect of which it has no jurisdiction, to the court with jurisdiction.

3. The appeal before me was filed at the wrong forum, before a court which has no jurisdiction to entertain it. It is, therefore, incompetent. It is accordingly struck out. The respondent shall have the costs.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 20TH DAY OF DECEMBER, 2021

W. MUSYOKA

JUDGE

In the presences of:-

Erick Zalo - Court Assistant

N/A for parties