

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL APPEAL NO. 384 OF 2013

YOGI SUPPLIERS LIMITEDAPPELLANT

VERSUS

KENYA TEXTILE MILLS LIMITEDRESPONDENT

RULING

This appeal arises from the judgment and order of the Business Premises Rent Tribunal (Honourable D. Mochache) made on 12th June 2013 in Nairobi Business Premises Rent Tribunal case No. 969 of 2012.

The dispute is between Landlord and Tenant governed by Cap 301 Laws of Kenya (Landlord, Tenant, Shops, Hotels and Catering Establishments Act).

Section 15 and 16(2) of the said Act as amended on 15th December 2015 before this appeal was instituted is clear that the appeals from Business Premises Rent Tribunal lie to the Environment and Land Court. The amendment vide Statute Law Miscellaneous Amendment Act No. 25 of 2015 which came into effect on 15th December 2015 effectively divested this court (High Court of jurisdiction to hear and determine any appeal from Business Premises Rent Tribunal or the subordinate court where disputes are between Landlords and Tenants. That being the case, this court has no option but to down its tools and say no more thing than refer the appeal to the court with competent jurisdiction to hear and determine the subject matter in dispute. To do otherwise would be tantamount to usurping the jurisdiction of a court of equal status as contemplated in Article 162(2) (b) of the Constitution and whose jurisdiction is exclusive. It will also amount to violation of Article 165(5) (b) of the Constitution which expressly ousts the jurisdiction of the High Court from hearing and determining disputes preserved for the court contemplated in Article 12(2) (b) of the Constitution.

Consequently, I direct that this appeal be and is hereby placed before the Environment and Land Court for further directions as to its disposal as the court may deem fit and just.

Orders accordingly.

R.E. ABURILI

JUDGE

20.4.2016