



**Adi Gift Limited v Nyatenga (Civil Appeal 297 of 2017)  
[2025] KEHC 7913 (KLR) (Civ) (4 June 2025) (Judgment)**

Neutral citation: [2025] KEHC 7913 (KLR)

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

**CIVIL**

**CIVIL APPEAL 297 OF 2017**

**WM MUSYOKA, J**

**JUNE 4, 2025**

**BETWEEN**

**ADI GIFT LIMITED ..... APPELLANT**

**AND**

**GLADYS NYATENGA ..... RESPONDENT**

*(Appeal from judgement and decree, by Hon. EK Usui, Senior Principal  
Magistrate, SPM, in Milimani CMCCC No. 585 of 2011, of 17th May 2017)*

**JUDGMENT**

1. The suit, at the primary court, was filed by the appellant against the respondent. Her case was that the respondent was her employer, and that she was injured in the course of the employment. She accused the respondent of failing to provide her with a safe working environment, to provide her with protective work gear, and assigning to her a task that was risky without warning her of the attendant dangers. The respondent denied liability, inclusive of the employment relationship.
2. A trial was conducted. The appellant testified, and called a witness. She asserted the employer-employee relationship between her and the respondent, which she testified began in 2000. The respondent called two witnesses. Both admitted that the appellant worked for the respondent.
3. There is no doubt that the suit turned on an employment relationship between the appellant and the respondent. The dispute turned on conditions of work, and, therefore, it was an employment and labour relations suit.
4. *The Constitution*, at Article 162(2)(a), envisages a court, with the status of the High Court, with jurisdiction to hear and determine disputes relating to employment and labour relations. That court is established under the *Employment and Labour Relations Court Act*, Cap 8E, Laws of Kenya. At



Article 165(5)(b) of *the Constitution*, it is stipulated that the High Court shall not exercise jurisdiction in respect of matters that fall under Article 162(2), reserved for the courts contemplated under that Article.

5. Given that the dispute in Milimani CMCCC No. 585 of 2011 turned on matters that related to employment and labour relations, and *the Constitution*, in Articles 162(2) and 165(5), has taken away jurisdiction from the High Court, over such matters I, sitting at the High Court, would have no jurisdiction to sit on an appeal which turns on such matters. That jurisdiction lies elsewhere, and the instant appeal should have been filed there.
6. The Owners of Moor Vessel “Lillian S” vs. Caltex Oil Kenya Limited [1989] KLR 1653 [1989] eKLR (Nyarangi, Masime & Kwach, JJA) prescribed what a court ought to do, when it turns out that it has no jurisdiction over a matter placed before it. It downs its tools. It freezes its hand. It stops handling. That is what I shall do.
7. The appeal is filed before a court without jurisdiction. It is incompetent. I hereby strike it out. See Equity Bank Limited vs. Bruce Mutie Mutuku t/a Diani Tour Travel [2016] eKLR (Makhandia, Ouko & M’Inoti, JJA) and Phoenix of EA Assurance Company Limited vs. SM Thiga t/a Newspaper Service [2019] eKLR (Karanja, Gatembu & Sichale JJA). The respondent is entitled to costs, for being dragged to the wrong court. The respondents shall have the costs of the incompetent appeal. Orders accordingly.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 4<sup>TH</sup> DAY OF JUNE 2025.**

**WM MUSYOKA**

**JUDGE**

Mr. Arthur Etyang, Court Assistant, Busia.

Ms. Caroline Oyusu, Court Assistant, Milimani, Nairobi.

Ms. Azenga Alenga, Legal Researcher.

Advocates

Miss Kimani, instructed by AM Kimani & Company, Advocates for the appellant.

Mr. Nzavi, instructed by Nzavi & Company, Advocates for the respondent.

