



**Islam v Asa International (Kenya) Limited (Cause E506 of 2024)
[2025] KEELRC 2586 (KLR) (26 September 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2586 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E506 OF 2024
AK NZEI, J
SEPTEMBER 26, 2025**

BETWEEN

MD. NAZRUL ISLAM CLAIMANT

AND

ASA INTERNATIONAL (KENYA) LIMITED RESPONDENT

RULING

1. The application before me for determination is the Respondent's Notice of Motion dated 27th August, 2024 and expressed to be brought under Sections 1A, 1B and 3A of the *Civil Procedure Act*, Section 89 of the *Employment Act* and Rule 13(5) of the Employment and Labour Relations Court (Procedure) Rules. The Respondent/Applicant seeks the following Orders:-
 - a. That the application and the Respondent's Preliminary Objection be placed before the Honourable Judge for directions at the earliest instance.
 - b. That the Honourable Court be pleased to find that it has no Jurisdiction to hear and determine the matters herein as the subject contract is Bangladeshi.
 - c. That the Claimant has no locus standi to sue the Respondent.
 - d. Costs of the suit.
 - e. Any further Order that the Honourable Court may deem fit and just to issue in the circumstances.



2. The application sets out on its face the grounds upon which it is brought, and is based on the supporting affidavit of Emanuel Bara, the Respondent's Legal Manager, sworn on 27th August, 2024. It is deponed in the said supporting affidavit:-
 - a. that the Respondent is a credit company duly licenced to provide credit services in Kenya, and that in its ordinary course of business, the Respondent leverages from international expertise, including from its international affiliates who from time to time second their staff to the Respondent/Applicant.
 - b. that vide a letter dated 13th February, 2013, the Claimant was deployed to the Respondent/Applicant by ASA Bangladesh Technical Service Provider (ASAI TSP), which was to later change to ASAI Management Services Ltd (AMSL); and which was to settle the Claimant's consultancy fees. That the Claimant was advised as much.
 - c. that in line with the deployment, and as agreed between the parent company and the Respondent, the Respondent/Applicant was to pay the Claimant on behalf of the parent company.
 - d. that during the period of the Claimant's deployment with the Respondent/Applicant, several issues regarding performance were raised, and on behalf of the parent company, a disciplinary process was conducted, and the Claimant's deployment as cancelled.
 - e. that the Claimant is estopped by conduct and law from alleging to have been the Respondent/Applicant's employee; and has no locus to institute legal proceedings against the Respondent/Applicant.
3. Documents annexed to the said supporting affidavit include a letter by ASA International dated 13th February, 2014 deploying the Claimant to ASA Limited Kenya from 16th March, 2014 as a Team leader, among other documents.
4. The application was filed contemporaneously with a Notice of Preliminary Objection which raised the same grounds as the application. On 12th March, 2025, Counsel for the Respondent/Applicant told the Court that the Respondent/Applicant would only prosecute the application herein, and that the Preliminary Objection should be treated as having been subsumed in the application.
5. The application is opposed by the Claimant vide a replying affidavit sworn by himself on 26th February, 2025. Documents annexed to the said replying affidavit include a letter by the Respondent, ASA Limited Kenya, to the Claimant dated 25th February, 2014, which states as follows:-

“I am pleased to inform you that ASA Limited Kenya (“the company”) Management has decided to appoint you as “Training cum Branch Manager” of the Company with effect from 15th March, 2014. The terms and conditions of this appointment will be as follows:-

 1. You will get consolidated amount of USD 750 (Seven hundred and Fifty United States Dollars only) per month as salary and allowances.
 2. You will be responsible to pay your tax against salary and allowances as per laws of Kenya.



3. Your duty station will be in Nairobi, Kenya, but transferable to any part of the country whenever the management feels necessary.
4. It is to mention, termination or resignation will be executed subject to at least three (Three) month prior notice by both parties.
5. Your key job responsibilities will be as mentioned in the attached job description.
6. You will be reportable to the Country Director of ASA Limited Kenya for your duties.

ASA Kenya Limited wishes you success in the new career and desires your strong effort and pleasant co-operation.

Thanking you,

Signed

Mohamud Mishu Mahmud

Country Director.”

6. The aforesaid letter of appointment is on the Respondent/Applicant’s letterhead, and the Respondent’s physical and postal address is shown to be/to have been in Nairobi. Also annexed to the replying affidavit is the Respondent/Applicant’s letter to the Claimant dated 23rd December 2015 designating the Claimant as the Respondent’s “Training cum Regional Manager in Machakos Region” effective 1st January, 2016.
7. In view of the foregoing, it cannot be said that this Court has no jurisdiction to hear and to determine the suit herein, which is shown to relate to matters arising from the Claimant’s employment by the Respondent in Kenya. It has been deponed on behalf of the Respondent/Applicant that the Respondent “is licenced to provide credit services in Kenya.” The Claimant’s employment by the Respondent was effected and executed in Kenya. Having considered written submissions filed on behalf of both parties, I find no merit in the Notice of Motion dated 27th August, 2024, and the same is hereby dismissed with costs to the Claimant.
8. The suit herein shall be fast tracked, and shall be set down for hearing.
9. Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF SEPTEMBER 2025

AGNES KITIKU NZEI

JUDGE

Order

This Ruling has been delivered via Microsoft Teams Online Platform. A signed copy will be availed to each party upon payment of the applicable Court fees.

AGNES KITIKU NZEI

JUDGE

Appearance:

Mr. Wangai for the Claimant



Mr. Lutukai for the Respondent

