



Cheruiyot v Doshi & Co. (Electricals) Limited t/a Metsscables Limited (Miscellaneous Application E021 of 2025) [2025] KEELRC 3043 (KLR) (29 October 2025) (Ruling)

Neutral citation: [2025] KEELRC 3043 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
MISCELLANEOUS APPLICATION E021 OF 2025
MA ONYANGO, J
OCTOBER 29, 2025**

BETWEEN

DAVID KIPLAGAT CHERUIYOT APPLICANT

AND

**DOSHI & CO. (ELECTRICALS) LIMITED T/A METSCCABLES
LIMITED RESPONDENT**

RULING

1. The application herein is dated 18th March, 2025 and seeks orders that: -
 - i. That the Honourable Court be pleased to stay any further proceedings Kapsabet Cm Elrc No. E003 Of 2024 - David Kiplagat Vs. Doshi & Co.(electricals) Limited T/a Metsec Cables Ltd pending hearing and determination of this application interparties.
 - ii. That the Honourable Court be pleased to transfer the matter Kapsabet Cm Elrc No.e003 Of 2024- David Kiplagat Vs. Doshi & Co. (electricals)limited T/a Metsec Cables Ltd from the Chief Magistrates Court at Kapsabet to the Chief Magistrates' at Eldoret for hearing and final determination.
 - iii. That the costs of the application herein be in the cause.
2. The application is filed under sections 15, 1A, 1B and 3A of the *Civil procedure Act* and Order 51 Rule 1 of Civil Procedure Rules and is anchored on the following grounds:
 - a. The cause of action in this matter arose in Eldoret where the Respondent is domiciled and that the subject of matter is on issues employment as the claimant alleged to have been employed by the Respondent situated in Uasin Gishu County within the jurisdiction of Eldoret Magistrate's Court.



- b. That the most reasonable, fair and central place that is convenient for all the parties in the matter herein is Eldoret Chief Magistrate's Court within Uasin Gishu County.
 - c. That a majority, if not all, of the parties having an interest herein hail from Eldoret in Uasin Gishu County and there would be a consequent saving of costs and avoidance of inconvenience to all parties if further proceedings are conducted in Eldoret Chief Magistrate's Court.
 - d. The overriding objective of the judicial process is to facilitate the just, expeditious, proportionate and affordable resolution of civil disputes and to save judicial time and resources. As such, this principle ought to apply to the parties' resources as well.
 - e. That it is in the interest of justice that this matter be heard to its very logical conclusion in Eldoret Chief Magistrate's Court within the local limits of the parties.
3. The application is further supported by the affidavit of Stanley Endege Avwonda, a manager of the Applicant company in which he deposes that the course of action arose in Eldoret where the Respondent is domiciled and where the subject matter arose, that majority, if not all, of the parties having an interest in the suit hail from Uasin Gishu County where there would be consequent saving of costs and avoidance of inconvenience to all parties, that the wider interest of justice will be best served if the suit is transferred to the Chief Magistrates Court at Eldoret.
 4. The Respondent filed a replying affidavit sworn on 7th May, 2025 in which he deposes that he is a resident of Mosoriot location in Nandi County and is not employed since his employment was terminated by the Applicant. That being a person of meagre means he cannot afford traveling to Eldoret to prosecute the suit compared to the Respondent, a company of financial ability.
 5. The Respondent further deposes that Kapsabet Court is vested with jurisdiction to handle the suit as it is within the geographical area of his residence. He supposes that transferring the suit will occasion delay as the suit would have to be registered afresh, given a new number and fresh directions taken including taking new dates for hearing.
 6. The Respondent further deposes that he filed the suit way back on 9th May, 2024 yet the Applicant has not filed its statement of response, an indication that there is no goodwill on the part of the Applicant to have the suit concluded.
 7. The application was disposed of by way of written submissions. Both parties filed submissions.

Analysis and Determination

8. I have considered the application together with the grounds in support thereof. I have further considered the replying affidavit and the rival submissions of the parties. There is in my view only one issue that arises for determination, that is, whether the Applicant has persuaded the court that it is deserving and/or entitled to the orders sought to have Kapsabet Cm Elrc No. E003 Of 2024 – David Kiplagat V Doshi & Co. (electrical) Limited T/a Metsec Cables Ltd transferred from Kapsabet to the Chief Magistrates Court in Eldoret.
9. Rule 6 of the Employment and Labour Relations Court (Procedure) Rules, 2024 provides as follows:
 6. Place of suing and hearing.
 1. Proceedings before the Court shall be instituted at the Court's registry or sub-registry with respect to the county where—



- a. the claimant, petitioner or applicant, at the time of commencement of the proceedings, actually and voluntarily resides or carries on business or personally works for gain; or
 - b. the cause of action, wholly or in part, arises Sittings of the Court. Divisions of the Court. Sub-registries and circuit courts. Place of suing and hearing.
 2. The Court may, on its own motion or upon application, for recorded reasons, transfer any proceeding to the most convenient court station for hearing and determination.
10. The Applicant relied on the provisions of sections 15, 1A, 1B and 3A of the *Civil procedure Act* and Order 51 Rule 1 of Civil Procedure Rules which are only applicable to this court where the rules of this court are silent.
11. Section 15 of the *Civil procedure Act* provides:
15. Other suits to be instituted where defendant resides or cause of action arises
- Subject to the limitations aforesaid, every suit shall be instituted in a court within the local limits of whose jurisdiction—
- a. the defendant or each of the defendants (where there are more than one) at the time of the commencement of the suit, actually and voluntarily resides or carries on business, or personally works for gain; or
 - b. any of the defendants (where there are more than one) at the time of the commencement of the suit, actually and voluntarily resides or carries on business, or personally works for gain, provided either the leave of the court is given, or the defendants who do not reside or carry on business, or personally work for gain, as aforesaid acquiesce in such institution; or
 - c. the cause of action, wholly or in part, arises.
12. The *Civil procedure Act* and Rules favour the filing of suits where the defendants reside while the rules of this court favour filing of suits where the Claimant resides. In the event of such conflict, the rules of this court prevail as the suit is an employment and labour relations dispute and therefor subject to the Employment and Labour Relations Court (Procedure) Rules.
13. The rules of this court specifically provide for the suit to be filed where the Claimant resides. The Respondent, who is the Claimant in Kapsabet Cm Elrc No. E003 Of 2024 has deposed in his replying affidavit that he is resident in Kapsabet. He thus properly filed the suit in Kapsabet where he resides.
14. For these reasons I find no merit in the application and dismiss the same with costs.

DATED, DELIVERED AND SIGNED THIS 29TH DAY OF OCTOBER, 2025.

M. ONYANGO

JUDGE

