



**Wanjala v Milly Glass Works Limited (Appeal E034 of 2025)
[2026] KEELRC 911 (KLR) (9 April 2026) (Judgment)**

Neutral citation: [2026] KEELRC 911 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
APPEAL E034 OF 2025**

**K OCHARO, J
APRIL 9, 2026**

BETWEEN

EDWIN SIMIYU WANJALA APPELLANT

AND

MILLY GLASS WORKS LIMITED RESPONDENT

JUDGMENT

1. Contending that at all material times he was an employee of the Respondent serving under a fixed-term contract, but that his contract of service was terminated unfairly and/or failed to be renewed contrary to his legitimate expectation, the Appellant initiated legal proceedings against the Respondent in the aforementioned lower court suit. He claimed notice pay, compensation for unfair termination, gratuity, compensation for unpaid leave, travel allowance, as well as general and punitive damages for the deprivation of his right to union membership.
2. The Respondent countered the Appellant's claim with a Statement of Response dated 12th October 2023. They argued that the Appellant's contract of service terminated by effluxion of time on 30th April 2022. As such, his allegations of unfair dismissal and his quest for the various remedies set out in his pleadings were without merit.
3. Upon hearing the parties on their respective cases, the trial Court held that it lacked the requisite jurisdiction to hear and determine the matter, and consequently downed its tools.
4. Aggrieved by the Judgment, the Appellant filed the instant appeal challenging it on the following grounds;
 - I. The learned Magistrate erred in law and fact by citing a lack of jurisdiction without basing it on any specific law or statute.



- II. The learned Magistrate erred in law and fact by failing to evaluate the evidence of the parties before reaching a conclusion that he lacked jurisdiction.
- III. The learned Magistrate erred in law and fact by singling out the Appellant's exhibit as the reason for the lack of jurisdiction without deciding on its applicability in the suit.
- IV. The learned Magistrate erred in law and fact by failing to issue a judgment based on the merit of the case.

Analysis and Determination

5. I have carefully considered the pleadings and evidence of the parties before the trial court, the grounds of appeal herein, and the respective submissions filed in this appeal by the parties, and a sole issue emerges for determination: whether the learned trial magistrate erred in law in holding that she did not have jurisdiction to entertain the claim before her.
6. Inarguably, in its brief judgment, the trial Court declined jurisdiction to entertain the Appellant's claim before it. The brief judgment read in part;

“The Claimant has brought the claim herein seeking compensation for the alleged unfair termination of his employment by the respondent. Details of the claim are set out in the Memorandum of Claim. It is pleaded that he was employed by the respondent initially as a casual worker in April 2007 and subsequently issued with a one-year renewable contract as a technician in the Plant Maintenance Department, earning a monthly salary of KShs. 21,067.40.

The claimant states that there exists a collective bargaining agreement between the respondent and the Kenya Chemical Workers Union, where he is a member.

Insofar as the claimant relies on a collective bargaining agreement between the respondent and the Kenya Chemical Workers Union, this court lacks jurisdiction to hear and determine the claim herein.

Consequently, the court shall down its tools.”

5. Suffice it to state that the well-known position of the law is that to determine whether or not a Court can exercise jurisdiction over a matter, it is the facts outlined in the pleadings and the reliefs endorsed therein alone that the Court is required to examine and no more.
6. From any perspective, the pleadings before the trial court clearly demonstrate that the Appellant's claim pertained to unfair termination and compensation for damages for alleged violation of the Appellant's constitutional rights. The claim for unfair termination was within the jurisdiction of a Magistrate's Court possessing the requisite authority under Section 9[b] of the Magistrates Act and Legal Notice No. 6024 of June 2018. The notice designated all Magistrates of the rank of Senior Resident Magistrate and above to hear employment claims, provided that the employee's monthly salary does not exceed KShs. 80,000.
7. The mere mention of the existence of a Collective Bargaining Agreement did not, on its own, render the dispute before the trial court a labour dispute. The context in which the Collective Bargaining Agreement was mentioned in the pleadings was an important factor that the learned Magistrate should have carefully considered before declining jurisdiction. In my view, the Appellant, in mentioning the Collective Bargaining Agreement and specific clauses thereof, was only suggesting a way to arrive at fair and just remedies for himself.



5. However, the jurisdictional limitation imposed by Section 8 of the Magistrates' Act on adjudicating alleged human rights violations has not escaped the sight of this Court. The section provides;
- (1) Subject to Articles 165[3][b] of *the Constitution* and the pecuniary limitation set out in section 7[1], a magistrate's court shall have jurisdiction to hear and determine applications for redress of a denial, violation or infringement of, or threat to, a right or fundamental freedom in the Bill of Rights. [2] The applications contemplated in subsection [1] shall only relate to the rights guaranteed in Articles 25[a] and [b] of *the Constitution*.
 - (3) Nothing in this Act may be construed as conferring jurisdiction on a magistrate's court to hear and determine claims for compensation for loss or damage suffered in consequence of a violation, infringement, denial of a right or fundamental freedom in the Bill of Rights.
11. For the foregoing reasons, I reach the inevitable conclusion that the learned trial Magistrate erred in law by holding that he did not fully have jurisdiction to determine the Appellant's claim before him. The Appeal herein is allowed. The trial Court's holding that it lacked jurisdiction is hereby set aside. The matter is referred back to her for a judgment on the merits on the basis of the parties' pleadings, evidence, and submissions.
12. Orders accordingly.

READ, DELIVERED AND SIGNED THIS 9TH DAY OF APRIL 2026.

OCHARO KEBIRA

JUDGE

