



Kazungu v Clerk, County Assembly of Taita - Taveta & 3 others (Petition E005 of 2025) [2025] KEELRC 503 (KLR) (24 February 2025) (Ruling)

Neutral citation: [2025] KEELRC 503 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT MOMBASA
PETITION E005 OF 2025
K OCHARO, J
FEBRUARY 24, 2025

BETWEEN

WISDOM MWAMBURI KAZUNGU PETITIONER

AND

**CLERK, COUNTY ASSEMBLY OF TAITA-TAVETA & 3
OTHERS RESPONDENT**

RULING

1. This matter comes up for the hearing of the Petitioner's Notice of Motion dated 12th February 2025. Counsel for the Petitioner/Applicant indicates that he is set to proceed to argue the application. However, Counsel for the Respondent Mr. Nyange points out: -
 - a. That though the Respondents have resisted Petitioner's application, above-mentioned through a replying affidavit sworn on 21st February 2025, they have filed an application dated 19th February 2025 which raises a jurisdictional issue, and as such it should be canvassed first.
 - b. Prior to the filing of this Petition, the Petitioner had filed other matters which Court 1 has handled variously. In Petition E008 of 2024, the Petitioner sued the Respondents over issues similar to those obtaining in the instant Petition. The Petition was dismissed by Justice Mbaru. Shortly thereafter, the Petitioner filed another Petition in the High Court which was subsequently transferred to Employment and Labour Relations Court, Mombasa for hearing and final disposal. It allocated No. E009 of 2024 (Petition). Justice Mbaru declined to assume jurisdiction over the matter and re-transferred the same to Voi High Court for hearing and determination.
 - c. Aggrieved by the order of transferring the matter to High Court Voi, the Respondents filed an appeal which is pending.



and urges this court to, in view of the circumstances, transfer this matter to Court No. 1 for hearing and final determination. In their view, Court 1 is most suited to handle this matter.

2. Counsel Mr. Gikandi for the Petitioner opposes the application for transfer of this matter to Court 1. In his view the matters raised in the instant Petition and application are matters that can be handled by any Judge, not necessary Court 1.
3. Further, the application defies constitutional principles. A party should not be allowed to choose a Judge to handle his or her matter. To allow the application shall open flood gates for parties to forum shop.
4. I have carefully considered the submissions by Counsel for the parties. With great respect to Counsel for the Respondents, the application made is destitute of any sufficient reason and or legal foundation to attract the order desired by the Respondents.
5. This court is not incapacitated in any manner to appreciate the factual history of the various matters, and make a determination on the issues presented in the instant two applications, and the Petitioner's Petition.
6. The application made by the Respondents can wrongfully or rightfully be seen as an attempt to forum shop. The application is hereby rejected.

DATED, SIGNED AND DELIVERED THIS 24TH DAY OF FEBRUARY 2025.

OCHARO KEBIRA

JUDGE

