



Kenya Engineering Workers Union v Bhachu Industries Ltd (Cause E657 of 2024) [2025] KEELRC 1530 (KLR) (22 May 2025) (Ruling)

Neutral citation: [2025] KEELRC 1530 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E657 OF 2024**

**S RADIDO, J
MAY 22, 2025**

**BETWEEN
KENYA ENGINEERING WORKERS UNION CLAIMANT
AND
BHACHU INDUSTRIES LTD RESPONDENT**

RULING

1. For determination is a Notice of Preliminary Objection dated 15 October 2024, by Bhachu Industries Ltd (the Respondent), contending:
 - i. That this Honourable Court lacks the pecuniary jurisdiction to hear and determine this Claim pursuant to Gazette Notice No 6024 of 22nd June 2018.
 - ii. That the above Gazette Notice sets the pecuniary jurisdiction of this Honourable Court to entertain Claims where an employee was earning a monthly gross salary of Kshs 80,000/- and above.
 - iii. That the Claim before this Honourable Court was filed by the Claimant representing Francis Kyalo Kisua, whose monthly basic salary was Kshs 28,026/-, and Nicholas Munywoki Mbatha, whose monthly basic salary was Kshs 49,411/-
 - iv. That therefore this Court lacks jurisdiction to entertain this Claim and same ought to be struck out with cost for want of jurisdiction.
2. The Kenya Engineering Workers Union (the Union) filed Grounds of Opposition to the Notice of Preliminary Objection on 28 October 2024.
3. Pursuant to Court directions on 19 March 2025, the Respondent filed its submissions on 8 April 2025 (should have been filed and served before 31 March 2025), and the Union on 22 April 2025.



4. The Court has considered the Notice of Preliminary Objection, Grounds of Opposition and submissions.

5. Gazette Notice No 6024 of 22 June 2018 provides:

Gazette Notice No. 6024

The *Employment And Labour Relations Court Act* (no. 20 Of 2011)

Appointment Of Magistrates' Courts To Hear Matters Relating To Employment And Labour Relations

In Exercise of the powers conferred by section 29 (3) and (4) (b) of the *Employment and Labour Relations Court Act*, 2011, and in consultation with the Principal Judge of the Court, the Chief Justice appoints all Magistrates of the rank of the Senior Resident Magistrates and above as Special Magistrates designated to hear and determine the following employment and labour relations cases within their respective areas of jurisdiction:

1. Disputes arising from contracts of employment (excluding trade disputes under the *Labour Relations Act*, 2007) where employees' gross monthly pay does not exceed Ksh 80,000.00 as commenced and continued in accordance with the Employment and Labour Relations Court (Procedure) Rules, 2016.

2. Matters relating to the following specific areas-

- (i) Offences under the *Work Injury Benefits Act*, 2007.
- (ii) Offences under the *Employment Act*, 2007.
- (iii) Offences under the *Labour Institutions Act*, 2007.
- (iv) Offences under *Occupational Safety and Health Act*, 2007; and
- (v) Offences under the *Labour Relations Act*, 2007.

The conferment under Gazette Notice No. 9243 is revoked.

Dated the 10th June, 2018.

David K. Maraga,

Chief Justice/President, Supreme Court of Kenya.

6. It is not in doubt that the Gazette Notice delegated certain jurisdictions of this Court to the Magistrates of the rank Senior Resident Magistrate and above.

7. The Gazette Notice expressly denies delegated jurisdiction to the Senior Resident Magistrates in respect to trade disputes.

8. A trade dispute is defined in section 2 of the *Labour Relations Act* as:

“trade dispute” means a dispute or difference, or an apprehended dispute or difference, between employers and employees, between employers and trade unions, or between an employers’ organisation and employees or trade unions, concerning any employment matter, and includes disputes regarding the dismissal, suspension or redundancy of employees, allocation of work or the recognition of a trade union;



9. The Union herein is a registered trade union, and it has a recognition agreement with the Respondent. The Union has brought the Cause on behalf of its members. The action herein is without doubt a trade dispute.
10. The Magistrates' Courts do not have delegated jurisdiction over such disputes.

Orders.

11. The Notice of Preliminary Objection dated 15 October 2024 is dismissed with costs to the Union.

DELIVERED VIRTUALLY, DATED AND SIGNED IN NAIROBI ON THIS 22ND DAY OF MAY 2025.

RADIDO STEPHEN, MCIARB

JUDGE

