



**Mughal v Springtech (K) Limited & 5 others (Cause E956 of 2024)
[2025] KEELRC 1937 (KLR) (30 June 2025) (Ruling)**

Neutral citation: [2025] KEELRC 1937 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E956 OF 2024
BOM MANANI, J
JUNE 30, 2025**

BETWEEN

AKIL NAHEED KADIR MUGHAL CLAIMANT

AND

SPRINGTECH (K) LIMITED 1ST RESPONDENT

SAJU LALCHAND SHAH 2ND RESPONDENT

BHUPENDRA SOMCHAND SHAH 3RD RESPONDENT

DEEPAN SHANJI SHAH 4TH RESPONDENT

MOHAMMED KAMIL MUGHAL 5TH RESPONDENT

SUSHIL SHANJI SHAH 6TH RESPONDENT

RULING

Background

1. Through a Memorandum of Claim dated 8th November 2024, the Claimant has instituted these proceedings claiming various reliefs in reparation of the alleged unfair termination of his contract of service with the 1st Respondent. He also claims other reliefs arising from his membership and shareholding in the 1st Respondent.
2. He contends that apart from being a director of the 1st Respondent together with the other five (5) Respondents, he was also assigned the function of the 1st Respondent's Managing Director. He asserts that on 11th March 2024, the Respondents irregularly terminated his executive role with the 1st Respondent. As such, he seeks various reliefs as set out in the Memorandum of Claim relating to breach of his alleged contract of service with the 1st Respondent.



3. Further, the Claimant asserts that since 2024, the Respondents have illegitimately withheld his dividends from the 1st Respondent. He further avers that the Respondents have attempted to forcibly and illegally remove him from the directorship position in the 1st Respondent.
4. He contends that the actions by the Respondents are in breach of the 1st Respondent's Articles of Association. Accordingly, he seeks various reliefs tied to his alleged shareholding and membership in the 1st Respondent to wit: directorship fees; an order to restrain the Respondents from removing him from the position of director in the 1st Respondent; and an order to value his shareholding in the 1st Respondent.
5. The Respondents entered appearance in the cause and filed a Notice of Preliminary Objection dated 18th December 2024. In the objection, they contend that the court has no jurisdiction to entertain the dispute between the parties since there is no employer-employee relation between them.
6. The Respondents contend that the relation between the 1st Respondent and the Claimant is one of directorship and not employment. They further contend that the the 2nd to 6th Respondents and the Claimant are all directors of the 1st Respondent and that the Claimant is not an employee of these other directors. As such, they contend that the court has no jurisdiction to entertain this suit in terms of article 162 of the Constitution as read with section 12 of the [*Employment and Labour Relations Court Act*](#).

Analysis

7. A reading of the Memorandum of Claim discloses that the Claimant's suit has a dual foundation. He has sued the Respondents on the basis of the purported employment relation between him and the 1st Respondent where he was allegedly serving as a Managing Director. He has also sued the Respondents on the basis of his membership and directorship in the 1st Respondent.
8. The Employment and Labour Relations Court's jurisdiction is donated by section 12 of the [*Employment and Labour Relations Court Act*](#) as read with article 162 of the [*Constitution*](#). The court is entitled to adjudicate on employment and labour relations disputes involving the several actors that are set out under section 12 of the [*Employment and Labour Relations Court Act*](#).
9. The court has no jurisdiction over disputes relating to directorship and shareholding in a company. These are not employment disputes. Rather, they are commercial disputes which fall in the realm of the High Court.
10. In [*Rift Valley Water Services Board & 3 others v Geoffrey Asanyo & 2 others*](#) [2014] KECA 363 (KLR), the Court of Appeal underscored this fact. It held that a director of a company cannot claim employment to the company by the mere fact of his directorship to it (the company). As such, absent evidence that the director was also engaged as an employee of the company, the Employment and Labour Relations Court will have no jurisdiction to adjudicate on disputes arising from the directorship arrangement.
11. In the premises, the dispute between the Claimant and the 1st Respondent which relates to his membership and directorship in the 1st Respondent to wit valuation of his shareholding in the 1st Respondent and payment of directorship fees lies outside the jurisdiction of this court. As such, it is struck out.
12. Notwithstanding the foresaid, the Claimant has also sued to claim reliefs for the alleged breach of his employment contract with the 1st Respondent. He contends that the 1st Respondent had engaged his



- services as its Managing Director but this executive role was allegedly terminated by the Respondents without just cause.
13. To back his claim of employment to the 1st Respondent, the Claimant has presented to court pay slips for salary paid to him by the 1st Respondent appearing as documents number 3 in his list and bundle of documents. The pay slips suggest that the 1st Respondent had engaged the Claimant as employee number 50. They further suggest that the Claimant's pay was subject to statutory deductions applicable to an employee's salary. These include National Social Security Fund and National Health Insurance Fund deductions and Pay as You Earn tax.
 14. As was held in *Rift Valley Water Services Board & 3 others v Geoffrey Asanyo & 2 others* [2014] KECA 363 (KLR, the mere fact of directorship in a company without more does not render one an employee of the company. However, this does not mean that a director of a company cannot simultaneously serve as its employee. The company and its directors are entitled to enter into separate employment contracts where the directors may be appointed as employees in specific positions. When this happens, there will be an employment relation between such directors and the company which is distinct from the directorship relation between the parties (*Kuria v Tigoni Water Supply Co Ltd* [2023] KEELRC 1473 (KLR)).
 15. The preliminary evidence presented by the Claimant suggests that apart from being a shareholder and director of the 1st Respondent, he was also engaged as the latter's employee. As such, this court is entitled to adjudicate on the claim relating to the employment relation between the two.
 16. Apart from suing the 1st Respondent as his employer, the Claimant has also sued the 2nd to 6th Respondents in their capacities as co-directors of the 1st Respondent. The dispute between him and the 2nd to 6th Respondents is about shareholding in the 1st Respondent. It is not an employment dispute. As such, it ought to be presented to the High Court and not the Employment and Labour Relations Court. Consequently, the claim against the 2nd to 6th Respondent is struck out (*Kashonga v Kashonga & 2 others* (Petition E34 of 2022) [2023] KEELRC 316 (KLR) (3 February 2023) (Judgment)). The Claimant is at liberty to present the directorship and shareholder dispute before the High Court for adjudication.

Determination

17. In the ultimate, the court makes the following findings and orders:
 - a. The Claimant's claim against the 1st Respondent relating to his shareholding and directorship in the 1st Respondent lies outside the jurisdiction of this court. As such, it is struck out.
 - b. However, the Claimant's claim against the 1st Respondent relating to the alleged employment relation between him and the 1st Respondent falls within the court's jurisdiction. As such, is sustained and will go for trial.
 - c. The claim by the Claimant against the 2nd to 6th Respondents is founded on the directorship and membership (shareholding) dispute between these parties. As such, it lies outside the jurisdiction of this court and is struck out.
 - d. The Claimant is permitted to amend his Memorandum of Claim to reflect the changes that have been occasioned by this ruling.
 - e. The Claimant has the liberty to pursue his directorship and shareholding dispute in the 1st Respondent between him and the Respondents in the High Court which is the proper court to adjudicate on the matter.



DATED, SIGNED AND DELIVERED ON THE 30TH DAY OF JUNE, 2025

B. O. M. MANANI

JUDGE

In the presence of:

..... for the Claimant

..... for the Respondents

ORDER

In light of the directions issued on 12th July 2022 by her Ladyship, the Chief Justice with respect to online court proceedings, this decision has been delivered to the parties online with their consent, the parties having waived compliance with Rule 28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

B. O. M. MANANI

