



Kimaiyo v Geothermal Development Company Limited (Miscellaneous Application E013 of 2025) [2025] KEELRC 2387 (KLR) (29 August 2025) (Ruling)

Neutral citation: [2025] KEELRC 2387 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
MISCELLANEOUS APPLICATION E013 OF 2025**

J RIKA, J

AUGUST 29, 2025

BETWEEN

ABRAHAM KIMAIYO APPLICANT

AND

GEOHERMAL DEVELOPMENT COMPANY LIMITED RESPONDENT

RULING

1. The Applicant is a former Employee of the Respondent. He filed Claim against the Respondent at the Chief Magistrate's Court in Nakuru, registered as MCELRC No. E313 of 2021.
2. He states that the Claim is scheduled for hearing by the Trial Court, on 25th October 2025.
3. He has applied, through the application dated 13th March 2025, to have hearing of the Claim stayed, and the Claim transferred to this Court for hearing and determination.
4. The application is supported by his affidavit sworn on 13th March 2025.
5. He states that he filed the Claim at the Trial Court in error, relying on his last basic monthly salary earned, of Kshs. 48,188.
6. His correct gross monthly salary, was Kshs. 237,995.
7. This places his dispute beyond the pecuniary jurisdiction of Trial Court, under gazette notice No. 6024 dated 10th June 2018. The notice limits jurisdiction of the Trial Court to disputes arising from contracts of employment, where the Employee's gross monthly salary, does not exceed Kshs. 80,000.
8. The Applicant states that transfer will not prejudice the Respondent.
9. The Respondent opposes the application, relying on a notice of preliminary objection and grounds of opposition, both dated 8th April 2025.



10. Its position is that the Court does not have supervisory jurisdiction over the Trial Court; the Court cannot exercise original jurisdiction; the Cause at the Trial Court is a nullity, and incapable of transfer; the cause of action arose more than 3 years before this application was made; and, the application is irremediably defective, irregular and in abuse of the court process.
11. Parties agreed to have the application considered and determined on the strength of their affidavits, pleadings, and submissions. They confirmed filing and exchange of submissions at the last mention before the Court, on 26th June 2025.

The Court Finds: -

12. The Applicant filed a Statement of Claim dated 12th November 2021 and an Amended Statement of Claim on 26th September 2023, at the Trial Court.
13. At paragraph 5 of the Amended Statement of Claim, he pleads that he earned a basic monthly salary of Kshs. 52,000, housing allowance of Kshs. 18,232 and transport allowance of Kshs. 8,508- total Kshs. 78,740.
14. This is the position he states, in the Amended Statement of Claim, dated 26th September 2023.
15. When did he realize that his gross monthly salary was Kshs. 237,995, in excess of the Trial Court's jurisdiction?
16. His Amended Statement of Claim contains a prayer for 1-month salary in lieu of notice, pleaded at Kshs. 52,000.
17. The pay slip for the month of May 2020, includes variable items such as house allowance in arrears and overtime pay, explaining perhaps, why he now thinks that the Trial Court does not have jurisdiction. Gross salary for purposes of determining pecuniary jurisdiction, comprises the monthly basic salary, and invariable items.
18. Be that as it may, the Court is persuaded that the application is not merited. The Claimant was summarily dismissed by the Respondent on 10th December 2020. He presented his Claim at the Trial Court in 2021. Why would he take 4 years, to realize that he was in the wrong Court? Why wait until his Claim is scheduled for hearing?
19. He is bound by his pleadings before the Trial Court. The Amended Statement of Claim, states that his gross monthly salary was Kshs. 78,740, which is within the Trial Court's pecuniary jurisdiction.
20. It is not necessary to go into details of the Respondent's grounds of opposition, suffice to affirm that, this Court has jurisdiction on transfer of employment matters from the Magistracy; and a Claim filed in the wrong jurisdiction is not incapable of being redirected to the appropriate jurisdiction.

It Is Ordered: -

- a. The application dated 13th March 2025 filed by the Applicant is declined.
- b. No order on the costs.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAKURU, PURSUANT TO RULE 68[5] OF THE E&LRC [PROCEDURE] RULES, 2024 THIS 29TH DAY OF AUGUST 2025.

JAMES RIKA

JUDGE

