



Onyango v Ken Knit Kenya Limited (Employment and Labour Relations Cause E003 of 2024) [2024] KEELRC 1569 (KLR) (21 June 2024) (Ruling)

Neutral citation: [2024] KEELRC 1569 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET
EMPLOYMENT AND LABOUR RELATIONS CAUSE E003 OF 2024**

MA ONYANGO, J

JUNE 21, 2024

BETWEEN

PETER ONYANGO CLAIMANT

AND

KEN KNIT KENYA LIMITED RESPONDENT

RULING

1. By way of a preliminary objection dated 8th February 2024, the Respondent challenged the entire suit herein on the ground that this court lacks jurisdiction to hear and determine the claim pursuant to Gazette Notice No. 6024 of 22nd June 2018. The basis of the preliminary objection is that the Claimant's monthly gross income was Kshs 19,480.
2. On 28th February 2024, this court ordered the parties to file submissions on the preliminary objection. I have perused the record and only found submissions for the Respondent dated 5th March 2024.
3. In the submissions the Respondent reiterates the contents of the preliminary objection and replicates Gazette Notice No. 6024 of 22nd June 2018.
4. The Respondent cited *Jiffy Pictures Limited v Ofula (Civil Appeal E140 of 2021)* (2022) KEELRC 4022 (KLR) (29 September 2022) and Professor Daniel N. Mugendi v Kenyatta University & Others (2023) eKLR.
5. The Respondent argued that this court being divested of jurisdiction to entertain the suit, and in the absence of a request by the Respondent to have the matter transferred, the same should be dismissed with costs.
6. Vide Gazette Notice No. 6024 of 22nd June 2018, the Honorable Chief Justice directed that all magistrates of the rank of Senior Resident Magistrate and above shall be clothed with jurisdiction to



handle cases where the salary of the employee does not exceed 80,000/= with the exception of cases filed under the [Labour Relations Act](#).

7. The copies of pay slips attached to the Claimant's documents indicate that the Claimant's gross salary as at July 2023 was Kshs 16,034. His employment having been terminated in August 2023, the relevant salary is that of July 2023.
8. Going by the aforementioned gazette Notice this claim ought to have been lodged in the lower court.
9. In the preliminary objection the Respondent states that this court lacks jurisdiction to hear and determine this suit pursuant to Gazette Notice No. 6024 (CXX No.74) of 22nd June 2018. It does not however seek any prayers from the court.
10. It is not true that this court lacks jurisdiction to hear the case because the salary of the Claimant is below Kshs. 80,000. The wording of the Gazette Notice do not take away the jurisdiction of this court to hear and determine such suits. The exact wording of the Gazette Notice is as reproduced below:

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 Senior Resident Magistrate and above as special magistrates designated to hear and determine the following employment and labour relations cases within their respective areas of jurisdiction:

- a. Disputes arising from contracts of employment (excluding trade disputes under the [Labour Relations Act](#), 2007) where employees gross monthly pay does not exceed Kshs. 80,000/= as commenced and continued in accordance with the Employment and Labour Relations Court (Procedure) Rules 2016.

1. Section 29(3) and (4)(b) provide as follows:

29. Access to justice

- (1)
- (2)
- (3) The Chief Justice may, by notice in the Gazette, appoint certain magistrates to preside over cases involving employment and labour relations in respect of any area of the country.
- (4) Subject to Article 169(2)(a) of [the Constitution](#), the magistrates appointed under subsection (3) shall have jurisdiction and powers to handle—
 - (a) disputes relating to offences defined in any Act of Parliament dealing with employment and labour relations;
 - (b) any other dispute as may be designated in a Gazette notice by the Chief Justice on the advice of the Principal Judge.

12. The [Employment and Labour Relations Court Act](#) provides for the jurisdiction of this court as follows:



Jurisdiction of the Court

1. The Court shall have exclusive original and appellate jurisdiction to hear and determine all disputes referred to it in accordance with Article 162(2) of *the Constitution* and the provisions of this Act or any other written law which extends jurisdiction to the Court relating to employment and labour relations including—
 - a.
 - b.
1. It is clear from the wording of section 12(1) as read with the wording of Gazette Notice No. 6024 (CXX No.74) of 22nd June 2018 that the jurisdiction of this court was not divested by the Gazette Notice but rather, the jurisdiction was donated to the subordinate courts. This means that this court still retains its original jurisdiction under section 12 of the Act.
2. This being the case, this court has power to transfer the instant suit to the relevant magistrate's court for hearing and determination in line with the provisions of the Gazette Notice.
3. For the foregoing reasons, the suit herein is hereby transferred to the Chief Magistrates Court Eldoret for hearing and determination.
4. The costs of this application shall be borne by the Claimant in any event.

DATED, SIGNED AND DELIVERED VIRTUALLY ON THIS 21ST DAY OF JUNE, 2024

MAUREEN ONYANGO

JUDGE

