



**Kiarie v Palm Oil Transporters Limited (Cause E568 of 2020)
[2023] KEELRC 210 (KLR) (31 January 2023) (Ruling)**

Neutral citation: [2023] KEELRC 210 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E568 OF 2020**

**J RIKA, J
JANUARY 31, 2023**

BETWEEN

DAVID MAINA KIARIE CLAIMANT

AND

PALM OIL TRANSPORTERS LIMITED RESPONDENT

RULING

1. The Statement of Claim is dated 22nd September 2020.
2. It is indicated to have been filed, In the Magistrate’s Court at Nairobi
3. The Statement of Response dated 20th January 2021 similarly indicates it was filed In the Magistrate’s Court at Nairobi.
4. The Submissions filed by the Claimant dated 31st October 2022, state that the Claim was filed IN the High Court At Nairobi.
5. The List of Issues filed by the Claimant dated 22nd July 2021, were filed In the Chief Magistrate’s Court at Nairobi.
6. The Claim was placed before the undersigned Judge of the Employment and Labour Relations Court, heard virtually and hearing closed, on 23rd September 2022. Parties were advised on 30th November 2022, that Judgment would be delivered on Notice.
7. It is in the course of reviewing the Parties’ Pleadings in preparation of the Judgment, that the Court has realized the Claim was improperly presented before it. Proceedings and the Pleadings have a fundamental flaw, and Judgment prepared and delivered by a different jurisdiction from that indicated in the Pleadings, cannot stand the test of legality.
8. Filing was meant to be Inthe Chief Magistrate’s Court At Nairobi.



9. The Claimant's salary is indicated to have been Kshs. 25,000 monthly, within the jurisdiction of the Chief Magistrate's Court.
10. The Registry Staff at the E&LRC Nairobi, should not have accepted the Pleadings, filed in 2020, and the matter ought not to have been processed for hearing, and heard, before the Employment and Labour Relations Court.

It is ordered: -

- a. The proceedings of this Court dating from 17th December 2020 to 30th November 2022 are reviewed and set aside.
- b. The matter is transferred to the Chief Magistrate's Court Nairobi for fresh hearing and disposal.
- c. No order on the costs.

DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY, AT NAIROBI, UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 31ST DAY OF JANUARY, 2023.

JAMES RIKA

JUDGE

