



**Nyanchoka v Winners Chapel International (Cause 1383 of 2018)
[2023] KEELRC 1292 (KLR) (31 May 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1292 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 1383 OF 2018**

**J RIKA, J
MAY 31, 2023**

BETWEEN

ANTHONY MUCHENGO NYANCHOKA CLAIMANT

AND

WINNERS CHAPEL INTERNATIONAL RESPONDENT

RULING

1. The Claimant filed the Cause herein, and Cause Number E 4821 of 2020 at the Chief Magistrate's Court Milimani Court, Nairobi.
2. Both Claims are against the Respondent.
3. At the Chief Magistrate's Court, he claims Kshs. 799,000 from the Respondent.
4. He states that this debt arose, after he was engaged to repair Respondent's vehicles. He also purchased spare parts for the said vehicles.
5. In the Cause before this Court, the Claimant states that he was employed by the Respondent as a mechanic, and was denied his salary over a period of 4 years, which he claims at Kshs. 5,760,000. He also claims that he was unfairly dismissed, and pursues compensation for unfair termination, and notice pay, among other prayers.
6. The Respondent has filed an Application dated December 15, 2022, asking the Court to strike out the Claim, on the ground that a similar case is pending before the Chief Magistrate's Court, between the same Parties, and over the same subject matter.
7. Parties agreed that the Application is considered and determined on the strength of their Pleadings, Documents and Submissions.
8. They confirmed filing and exchange of Submissions on March 28, 2023.



The Court Finds: -

9. The Claim before the Chief Magistrate's Court is between the same Parties, and relates to repair of the Respondent's vehicles by the Claimant.
10. The Claim before this Court indicates that the Claimant was employed by the Respondent as a mechanic. His duties would include repair of the Respondent's vehicles.
11. It is not clear how he would be engaged as an Independent Contractor simultaneously with his role as an Employee of the Respondent, to perform the same nature of work.
12. Although the prayers sought in the 2 jurisdictions are different, there is no reason why they cannot be entertained before this Court.
13. The Claimant will have the opportunity to establish how he was engaged as an Independent Contractor and an Employee, before this Court.
14. It is not necessary to strike out his Claim on the ground proffered by the Respondent. He claims much more than repair of the Respondent's vehicle, in the Cause herein. What he claims before the Chief Magistrate's Court appears related to what he claims before this Court. In both cases, he alleges that he rendered labour, which was not compensated. Looking at the monetary value of the Claim herein, the Court would order that the Claim before the Chief Magistrate's Court is transferred to this Court, and consolidated with the Cause herein.

It Is Ordered: -

- a. The Application dated December 15, 2022 filed by the Respondent is declined.
- b. There shall be an order instead, transferring Chief Magistrate's CMEL Cause Number E4821 of 2020 at Milimani, between the Parties herein, to the E&LRC Nairobi.
- c. Upon transfer, the 2 Claims shall be consolidated.
- d. No order on the costs.

DATED, SIGNED AND RELEASED TO THE PARTIES VIA E-MAIL AT NAIROBI, UNDER PRACTICE DIRECTION NO. 6[2] OF THE ELECTRONIC CASE MANAGEMENT PRACTICE DIRECTIONS, 2020, THIS 31ST DAY OF MAY, 2023.

JAMES RIKA

JUDGE

