



**Oriawo v KK Security Services Limited (Cause E624 of 2021)
[2023] KEELRC 1322 (KLR) (18 May 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1322 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E624 OF 2021
NZIOKI WA MAKAU, J
MAY 18, 2023**

BETWEEN

BERNARD ODHIAMBO ORIAWO CLAIMANT

AND

KK SECURITY SERVICES LIMITED RESPONDENT

RULING

1. The respondent/applicant has raised an objection that the proceedings herein are fatally defective, incurably incompetent, have no basis in law and should be struck out with costs on the ground that this honourable court lacks the pecuniary jurisdiction to hear and determine this matter as per the Gazette Notice No. 6024 of 2018.
2. The respondent asserts that on account of the said gazette notice, this court is sans jurisdiction. Gazette Notice No. 6024 read as follows:-

Gazette Notice No. 6024

The [Employment And Labour Relations Court Act](#)

(No. 20 of 2011)

Appointment of Magistrates' Courts to hear matters

Relating To Employment And Labour Relations

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 Magistrates and above as Special Magistrates designated to hear and determine the following employment and labour relations cases within their respective areas of jurisdiction:



1. Disputes arising from contracts of employment (excluding trade disputes under the *Labour Relations Act*, 2007) where employees gross monthly pay does not exceed KSh.80,000.00 as commenced and continued in accordance with the Employment and Labour Relations Court (Procedure) Rules, 2016.

2. Matters relating to the following specific areas—

- (i) offences under the *Work Injury Benefits Act*, 2007
- (ii) offences under the *Employment Act*, 2007
- (iii) offences under the *Labour Institutions Act*, 2007
- (iv) offences under *Occupational Safety and Health Act*, 2007; and
- (v) offences under the *Labour Relations Act*, 2007. The conferment under Gazette Notice No. 9243 is revoked. Dated the June 10, 2018.

David K. Maraga,

Chief Justice/President, Supreme Court of Kenya.

3. The Gazette Notice did not strip this court of jurisdiction but rather donated the power the Employment and Labour Relations Court has, to Magistrates of the rank of Senior Resident Magistrate and above to hear disputes where the monthly salary of the employee is less than Kshs. 80,000/-.
4. The claimant herein ought to have filed the suit at the Magistrates Court even though the residual jurisdiction to entertain such a claim resides in this court. in the court's view, this is not fatal to the suit but merely irregular. The suit before me is therefore transferred by this court suo moto to the Chief Magistrate's Court at Milimani Commercial Law Courts for hearing and disposal. The costs of the application shall be costs in the cause.

It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 18TH DAY OF MAY 2023

Nzioki wa Makau

JUDGE

