



**Ochieng v Governor Bomet County & 3 others; Langat & 10 others
(Interested Parties) (Employment and Labour Relations Petition
E015 of 2022) [2023] KEELRC 1128 (KLR) (9 May 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1128 (KLR)

REPUBLIC OF KENYA

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
EMPLOYMENT AND LABOUR RELATIONS PETITION E015 OF 2022**

DN NDERITU, J

MAY 9, 2023

BETWEEN

MUSTAFAH OTIENO OCHIENG PETITIONER

AND

THE GOVERNOR BOMET COUNTY 1ST RESPONDENT

BOMET COUNTY GOVERNMENT 2ND RESPONDENT

BOMET COUNTY ASSEMBLY 3RD RESPONDENT

BOMET COUNTY PUBLIC SERVICE BOARD 4TH RESPONDENT

AND

ERICH CHERUIYOT LANGAT INTERESTED PARTY

DR JOHN KETER KIPROTICH INTERESTED PARTY

MILCAH CHEPKOECH INTERESTED PARTY

PAUL MUTAI KIKEMOI INTERESTED PARTY

PAULINE CHEPKEMOI LANGAT INTERESTED PARTY

SOLOMON KIMETTO KIPROTICH INTERESTED PARTY

DR KIBET SITIENEI INTERESTED PARTY

ERICK CHEPKOWNY KIPYEGON INTERESTED PARTY

SIMEON LANGAT INTERESTED PARTY

DR JOSEPH SITONIK INTERESTED PARTY

JOSEPH KIPKIRUI KIRUI INTERESTED PARTY



RULING

1. The 4th Respondent raised a Preliminary objection to the jurisdiction of this court to hear and determine the matter based on the fact that there is no employer/employee relationship between the Petitioner and the Respondents and even the Interested parties.
2. In two recent decisions *National Social Security Fund Board of Trustees V Kenya Tea Growers Association & 14 Others* (Civil Appeal No 656 of 2022)(2023) eKLR and Civil Appeal No 136 of 2023 as consolidated with 137 of 2023 - *The Clerk Nakuru County Assembly & Others V Kenneth Odongo & Others* (2023) eKLR the Court of Appeal has held that this court (ELRC) has no jurisdiction where there is no employer/employee relationship.
3. Although this court does not agree with that holding, the decisions are binding on this court.
4. For the foregoing reason, this court has to down its tools in this matter See Nyarangi J in *Owners of Motor Vessel Lillian "S" V Caltex Kenya Ltd*(1989) IKLR. This petition is hence struck out for lack of jurisdiction.
5. On the plea that this court makes an order for transfer of this cause to the High Court, this court holds that for lack jurisdiction it cannot make any further steps in the cause including making an order of transfer of the cause.
6. On costs, this is a public interest litigation and it would be punitive to order the Petitioner to meet costs yet had the petition succeeded it would have benefited the public and not the Petitioner personally.
7. For all the foregoing, the petition is struck out for lack of jurisdiction with no orders as to costs.

DATED, DELIVERED VIRTUALLY, AND SIGNED AT NAKURU THIS 9TH DAY OF MAY, 2023.

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DAVID NDERITU

JUDGE

