



**Machambi v Doric Industries Limited (Cause 1628 of 2018)  
[2023] KEELRC 1903 (KLR) (27 July 2023) (Ruling)**

Neutral citation: [2023] KEELRC 1903 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 1628 OF 2018**

**L NDOLO, J  
JULY 27, 2023**

**BETWEEN**

**OLIVE WANJIRU MACHAMBI ..... CLAIMANT**

**AND**

**DORIC INDUSTRIES LIMITED ..... RESPONDENT**

**RULING**

1. On September 28, 2022, I heard the Claimant's case *ex parte*. Thereafter, the Respondent filed an application dated November 22, 2022, seeking re-opening of the case. The application was allowed by consent of the parties recorded on January 30, 2023.
2. The matter was set for hearing on May 4, 2023 on which date attention was drawn to a notice of Preliminary Objection dated April 20, 2023 by which the Respondent challenges the jurisdiction of this Court to hear the matter citing the following reasons:
  - a. This Court lacks pecuniary jurisdiction to determine the suit as drawn and filed by the Claimant;
  - b. The suit as filed, contravenes Section 29 of the [Employment and Labour Relations Court Act](#);
  - c. The Claimant's action of filing the suit in the Employment and Labour Relations Court, deprives the Respondent a chance to be heard on appeal before this Court and further at the Court of Appeal.
3. The substance of the Objection is that the Claimant's monthly salary was below the threshold for this Court. According to the Respondent, the matter ought to have been filed in the Magistrate's Court.
4. Directions on disposal of the Preliminary Objection were taken, with the Respondent opting not to file submissions. The Claimant filed her submissions dated May 16, 2023.



5. The Claimant submits that her claim before this Court includes issues of violation of fundamental rights under the Constitution, placing the matter outside the jurisdiction of the Magistrate's Court.
6. I have looked at the Statement of Claim filed by the Claimant on December 19, 2018 alongside the Memorandum of Defence filed by the Respondent on May 17, 2019 and find that the dispute between the parties is purely an employment matter under the Employment Act. There is therefore nothing to suggest the existence of any special circumstances that would place the matter outside the jurisdiction of the Magistrate's Court.
7. That said, I must add that the jurisdiction given to the Magistrates' Courts by Gazette Notice No 6024 of June 22, 2018 being donated, does not in any way erode the residual jurisdiction of this Court. The obtaining situation, as I understand it, is that although the Employment and Labour Relations Court is not completely divested of jurisdiction, its original jurisdiction is withheld with regard to employment claims where the applicable monthly salary does not exceed Kshs 80,000.
8. I will therefore exercise the inherent powers of this Court to transfer this matter to the Chief Magistrate's Court at Milimani for hearing and disposal.
9. I make no order for costs.
10. Orders accordingly.

**DELIVERED VIRTUALLY AT NAIROBI THIS 27TH DAY OF JULY 2023**

**LINNET NDOLO**

**JUDGE**

Appearance:

Mr. Oduor B.O for the Claimant

Mr. Odipo for the Respondent

