



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Mwaniki v Kuria & 4 others (Cause E149 of 2023)
[2023] KEELRC 2554 (KLR) (19 October 2023) (Ruling)**

Neutral citation: [2023] KEELRC 2554 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E149 OF 2023
L NDOLO, J
OCTOBER 19, 2023**

BETWEEN

JUMA HEMEDI MWANIKI CLAIMANT

AND

DAVID KURIA 1ST RESPONDENT

MOSES KURIA 2ND RESPONDENT

THIKA WATER AND SEWERAGE COMPANY LTD 3RD RESPONDENT

**WATER, ENVIRONMENT, ENERGY & NATURAL RESOURCES - COUNTY
GOVERNMENT OF KIAMBU 4TH RESPONDENT**

STATE LAW OFFICE 5TH RESPONDENT

RULING

1. On 23rd February 2023, the Claimant filed a Statement of Claim and a Notice of Motion under Certificate of Urgency, seeking an order of injunction, restraining the Respondents from interfering with the Claimant's position in Thika Water and Sewerage Company Ltd.
2. Subsequently, the 1st, 2nd, 3rd and 4th Respondents raised a Preliminary Objection by notice dated 23rd March 2023, challenging the jurisdiction of this Court to entertain both the claim and the Notice of Motion.
3. The parties were directed to file submissions on the Preliminary Objection but only the Respondents complied.



4. The Employment and Labour Relations Court is established as a specialised Court under Article 162(2)(a) of *the Constitution* which provides that:

(2) Parliament shall establish courts with the status of the High Court to hear and determine disputes relating to-

- a. employment and labour relations; and
- b. ...

5. Pursuant to this constitutional edict, Parliament enacted the *Employment and Labour Relations Court Act*, which at Section 12(1) sets out the jurisdiction of the Court as follows:

12. Jurisdiction of the Court

(1) The Court shall have exclusive original and appellate jurisdiction to hear and determine all disputes referred to it in accordance with Article 162(2) of *the Constitution* and the provisions of this Act or any other written law which extends jurisdiction to the Court relating to employment and labour relations including-

- a. disputes relating to or arising out of employment between an employer and an employee;
- b. disputes between an employer and a trade union;
- c. disputes between an employer's organisation and a trade union's organisation;
- d. disputes between trade unions;
- e. disputes between employer organisations;
- f. disputes between an employers' organisation and a trade union;
- g. disputes between a trade union and a member thereof;
- h. disputes between an employer's organisation or a federation and a member thereof;
- i. disputes concerning the registration and election of trade union officials; and
- j. disputes relating to the registration and enforcement of collective agreements.

6. Looking at the Claimant's pleadings as filed in court, there is no employment relationship between the Claimant and any of the Respondents. For this reason, this Court has no jurisdiction to entertain either the claim or the interlocutory application.

7. Consequently, both the claim and Notice of Motion filed on 23rd February 2023 are struck out.

8. Each party will bear their own costs.



9. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 19TH DAY OF OCTOBER 2023

LINNET NDOLO

JUDGE

Appearance:

Mr. Njagi for the Claimant

Mr. OKeyo for the 1st – 4th Respondents

No appearance for the 5th Respondent

