



**Katunga Mbuvi & Company Advocates v Kenya County Government Workers Union
(Miscellaneous Case E243 of 2021) [2023] KEELRC 3380 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3380 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
MISCELLANEOUS CASE E243 OF 2021
MN NDUMA, J
DECEMBER 20, 2023**

BETWEEN

KATUNGA MBUVI & COMPANY ADVOCATES APPLICANT

AND

KENYA COUNTY GOVERNMENT WORKERS UNION RESPONDENT

RULING

1. The Applicant Advocate made an oral application on July 17, 2023 to have this file transferred from Nairobi E&CRC High Court in Nakuru on the basis that the suit was erroneously filed in ELRC Court at Nairobi instead of the High Court in Nakuru where the matter was heard and determined.
2. The Respondent was opposed to the application for transfer vide a replying affidavit dated July 24, 2023 on grounds that the High Court has no jurisdiction to transfer a suit to another court of equal jurisdiction but in terms of Section 18(1) of *Civil Procedure Act* it has power to transfer cases to subordinate courts suo moto or on application upon good cause.
3. In *Alijaso Wako & another v Ministry of Interior & Coordination of National Government and 5 others; Public Service Commission & 5 others* (2020) eKLR it was held:

Transfer or retrieving of the civil suit without the proper jurisdiction is an administrative matter which is aimed at technical speedy disposition of the case at hand. It has nothing to do with jurisdiction.”
4. I have carefully perused the record and I am satisfied that this suit was at the outset filed in the High Court of Kenya at Nakuru being Civil suit No. 143 of 2000.
5. The suit was heard and determined at that court and was subsequently erroneously brought to E&LRC at Nairobi. The court has also seen a consent filed by Kipkoech B. Ngetich, Gordon - Ogola



Kipkoech & Company Advocates for the plaintiff and Ms. Katunga Mbuvi & Company Advocates for defendant. In terms of that consent order:

- “1. The Plaintiff’s suit against the defendant be and is hereby withdrawn without no order as to costs.”
6. Ms. Katunga Mbuvi & Company Advocates who was a party to this consent now seeks to have the suit transferred to the court from which it was withdrawn with no order to costs.
7. The court has also perused a ruling dated November 25, 2009, delivered by D. K. Maraga, Judge (as he then was) in this suit being Civil suit No. 143 of 2006.
8. In view of these facts, this court, now exercises its administrative jurisdiction for good order to transfer this matter to Nakuru High Court where it was filed in the first place and conclusive proceedings took place. I have no reason at all to hold the same before this court.
9. Accordingly the court directs the Deputy Registrar, ELRC Nairobi to transfer this file to the Presiding Judge Nakuru High Court for mention and further directions. Cost in the cause.

MATHEWS N. NDUMA

JUDGE

DATED AND DELIVERED AT NAIROBI THIS 20TH DAY OF DECEMBER, 2023

