



**Githinji v Topcare Lands Investment Limited (Cause E844 of 2022)  
[2023] KEELRC 3369 (KLR) (19 December 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3369 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE E844 OF 2022  
L NDOLO, J  
DECEMBER 19, 2023**

**BETWEEN**

**LYDIAH WANJIKU GITHINJI ..... CLAIMANT**

**AND**

**TOPCARE LANDS INVESTMENT LIMITED ..... RESPONDENT**

**RULING**

1. This ruling responds to the respondent's preliminary objection, raised by notice dated January 6, 2023.
2. The substance of the objection is that this court has no jurisdiction to hear and determine the claim because the cause of action arose in Ruiru Sub-County, within the geographical jurisdiction of Ruiru Senior Principal Magistrate's Court.
3. In her grounds of opposition dated October 16, 2023, the Claimant states that:
  - a. The Preliminary Objection is misplaced and bad in law in as far as it alleges that this Court lacks jurisdiction;
  - b. The Magistrate's Court can only deal with employment disputes where the employee was earning a gross salary that does not exceed Kshs. 80,000. Therefore, this matter does not fall within the ambit of the donated powers to the Magistrate's Court because the Claimant was earning a salary of Kshs. 200,000 at the time of her dismissal;
  - c. In paragraph 12 of the Response to the Statement of Claim dated 6<sup>th</sup> January 2023, the Respondent alleges that the Claimant was being paid a salary of Kshs. 100,000, which exceeds the Kshs. 80,000 threshold;
  - d. The Ruiru Magistrate's Court does not have the jurisdiction to resolve this dispute. This necessitated the withdrawal of Ruiru PMCELRC No. E018 of 2022;



- e. With regard to employment disputes where an employee was earning a salary that exceeds Kshs. 80,000 the Employment and Labour Relations Court does not have concurrent jurisdiction with the Magistrate's Court.
4. This is a straightforward matter. The jurisdiction of Magistrate's Courts to hear and determine employment disputes is donated by Gazette Notice No 6024 of 10<sup>th</sup> June 2018, by which all Magistrates of the rank of Senior Resident Magistrate and above were gazetted as Special Magistrates to hear and determine the following cases within their areas of jurisdiction:
1. Disputes arising from contracts of employment (excluding trade disputes under the *Labour Relations Act*, 2007) where the employee's gross monthly pay does not exceed KSh. 80,000 as commenced and continued in accordance with the *Employment and Labour Relations Court (Procedure) Rules*, 2016.
  2. ...
  5. I do not need to say more. The Claimant's salary as pleaded by both the Claimant and the Respondent is beyond the threshold set by the instrument donating jurisdiction to the Magistrate's Courts.
  6. That said, the claimant's case falls within the jurisdiction of this court and the respondent's preliminary objection is without basis and is overruled with costs to the claimant.
  7. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 19<sup>TH</sup> DAY OF DECEMBER 2023

**LINNET NDOLO**

**JUDGE**

Appearance:

Mr. Mbuthia for the Claimant

Mr. Kamonjo for the Respondent

NBI. ELRC. NO. E844 of 2022	0
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