



**Mutisya v Shona EPZ Limited (Cause E594 of 2023)
[2023] KEELRC 3208 (KLR) (7 December 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3208 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E594 OF 2023
L NDOLO, J
DECEMBER 7, 2023**

BETWEEN

EUNICE NDUKU MUTISYA CLAIMANT

AND

SHONA EPZ LIMITED RESPONDENT

RULING

1. By its Notice of Preliminary Objection dated 14th August 2023, the Respondent challenges the jurisdiction of the Court to hear and determine this claim, on account of want of territorial jurisdiction.
2. In urging its Objection, the Respondent relies on Section 15 of the *Civil Procedure Act*, which provides for territorial jurisdiction based on several factors, including the place of business and/or occurrence of the cause of action.
3. The Respondent submits that the cause of action in this case arose in Athi River where the Respondent carries on business and where the contract of employment was executed and performed.
4. In opposing the Preliminary Objection, the Claimant relies on a number of decisions by this Court (variously constituted) affirming that the Employment and Labour Relations Court has countrywide jurisdiction that cannot be curtailed by territorial boundaries.
5. In *Judith Anyango Iruka v Muthaiga Golf Club* [2018] eKLR the Court stated as follows:

“The Employment and Labour Relations Court is stationed in various counties and has a number of gazetted sub-registries. There are even circuit courts but the territorial jurisdiction of the Court is countrywide.”



6. In *Debbie Atieno Odhiambo v Mhasibu Housing Company Limited & another* [2022] eKLR it was held:

“It is settled law and practice that the Employment and Labour Relations Court does not have territorial jurisdiction. Its reliance and application of the *Civil Procedure Act* and *Rules* is also fifty-fifty. The *Civil Procedure Act* only comes in in clear situations of a vacuum in the *Employment and Labour Relations Court Procedure Rules, 2016*.”
7. In *Republic v Chairman, Board of Directors National Water Harvesting & Storage Authority & another Ex Parte David Ngure Kairu* [2021] eKLR it was held that the Employment and Labour Relations Court has no geographical jurisdiction.
8. Of specific relevance to the present case, although there is a sub-registry in Machakos, there is in fact no sitting Judge there. With a bit of diligence, this is a matter of fact that the Respondent could have established. The Claimant was therefore well advised to file his case in Nairobi, being the nearest fully-fledged station.
9. On the whole, I find and hold that the Respondent’s Preliminary Objection is not well taken and proceed to overrule it with costs to the Claimant.
10. Orders accordingly.

DELIVERED VIRTUALLY AT NAIROBI THIS 7TH DAY OF DECEMBER 2023

LINNET NDOLO

JUDGE

Appearance:

Mr. Gicheru for the Claimant

Mr. Omulloh for the Respondent

