



REPUBLIC OF KENYA



KENYA LAW
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**Omondi v Ark Construction Limited (Cause 488 of 2022)
[2022] KEELRC 12830 (KLR) (6 October 2022) (Ruling)**

Neutral citation: [2022] KEELRC 12830 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE 488 OF 2022
AN MWAURE, J
OCTOBER 6, 2022**

BETWEEN

MICHAEL OTIENO OMONDI CLAIMANT

AND

ARK CONSTRUCTION LIMITED RESPONDENT

RULING

1. The claimant has written to the court by their letter dated July 15, 2022 requesting for the case to be transferred to the subordinate court. They pray that it is best to have the case transferred to the subordinate court rather than have it withdrawn because of time limitation.
2. The claimant appeared for mention before this honourable court and made the same application orally.
3. The respondent's advocate objected to the application and instead proposed the case should be withdrawn and a fresh suit filed in the subordinate court.
4. The court is of the view that there is nothing to bar the claimant from filing a formal application to transfer the suit to the subordinate court in view of the proviso of the gazette notice no 6024 of 2018 setting guideline to file suits in subordinate courts where the salary of the claimant/employee is below Kshs 80,000.
5. The court therefore hereby gives the claimant 14 days to file an application to transfer the suit to the subordinate court. The respondent is given 14 days to put a reply upon service of the application. Case will be mentioned on November 8, 2022 to give a date for the ruling of the said application.

Orders accordingly.

DELIVERED, DATED AND SIGNED IN NAIROBI THIS 6TH OCTOBER, 2022

ANNA NGIBUINI MWAURE



JUDGE

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court had been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B** of the **Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

ANNA NGIBUINI MWAURE

JUDGE

