

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF

KENYA AT NAIROBI

CAUSE NUMBER 1212 OF 2017

ROBERT YOHANA SIAHI.....CLAIMANT

VERSUS

INCHCAPE SHIPPING SERVICES (DUBAI) LLC.....RESPONDENT

RULING

1. Through a notice of preliminary objection dated 14th August, 2017 the respondent contended that the court did not have jurisdiction to entertain the claim on the grounds that the respondent company was based in Dubai and the claimants' employment location was in Mogadishu in Somalia and further that the cause of action arose in Somalia.
2. The claimant resisted the objection stating that although the claimant's place of work was in Somalia, it was obvious that the contract of employment was executed in Kenya.
3. The court has carefully reviewed the contract of employment herein and nowhere in the contract does it show it was executed in Kenya. In any event the respondent being a Dubai based company, the claimant had a choice to either sue in Dubai or in Somalia where the contract was performed.
4. The contract document does not admit of the jurisdiction of the Kenya courts. The fact that the respondent has a Branch in Kenya does not confer on Kenyan Courts jurisdiction to resolve disputes arising from contracts performed in a different country. To this extent the objection succeeds and the suit is hereby struck out with costs.
5. It is so ordered.

Dated at Nairobi this 17th day of May 2019

Abuodha J. N.

Judge

Delivered this 17th day of May 2019

Abuodha J. N.

Judge

In the presence of:-

.....for the Claimant and

.....for the Respondent.