



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT & LABOUR RELATIONS**

**COURT OF KENYA AT NYERI**

**SUIT NO. 104 OF 2018**

**KENYA UNION OF COMMERCIAL FOOD & ALLIED WORKERS (KUCFAW)...CLAIMANT**

**VERSUS**

**BOUNTY LIMITED.....RESPONDENT**

**RULING**

1. An objection has been taken as to the jurisdiction of the court. It is asserted by the Respondent that this court lacks jurisdiction to handle the dispute. The Claimant disagrees and states that the court has jurisdiction to handle the dispute. It will belabour the point to recite the decisions on what can be raised as a preliminary objection. I think the law is settled on that. What is to be determined is whether this court is imbued with jurisdiction as without it a court can do nothing.

2. The jurisdiction of the Employment and Labour Relations Court is country wide. The previous sittings of the court when it was named the Industrial Court were mainly in Nairobi but the court would go on circuit to Mombasa, Kisumu and Nakuru. In July 2012, 12 Judges were appointed as judges of the newly established superior court to handle employment and labour matters and the sittings of the court were confined to Nairobi initially. In 2013 and 2014 other court stations of the Employment & Labour Relations Court (ELRC) were established in the towns of Nakuru, Kisumu, Nyeri, Mombasa and the most recent one at Kericho. Judges were posted to man the court stations outside of Nairobi. Nyeri was one of the stations set up. The Nyeri ELRC covers the following areas Nyeri, Marsabit, Samburu, Meru, Tharaka Nithi, Embu, Kitui, Kirinyaga, Murang'a, Laikipia, Nyandarua and Samburu. As a Judge of the ELRC, I possess countrywide jurisdiction and though the claim herein can be competently heard by me here in Nyeri, the interests of justice will be best served if the suit is heard and determined in Nairobi as that is where the cause of action occurred and where parties reside per their pleadings. As the Respondent correctly points out, the hearing at Nyeri will occasion great expense to the parties as they will have to transport their witnesses and counsel to Nyeri for the hearing. In the interests of justice, the transfer of the suits to Nairobi for hearing and disposal is the way out. Each party will bear their own costs of the motion.

It is so ordered.

**Dated and delivered at Nyeri this 21<sup>st</sup> day of September 2018**

**Nzioki wa Makau**

**JUDGE**