



Jesus Mountain of Joy Ministries v Teresa Wanjiku Chege t/a Nairobi Feeds (Tribunal Case E725 of 2023) [2023] KEBPRT 666 (KLR) (24 November 2023) (Ruling)

Neutral citation: [2023] KEBPRT 666 (KLR)

**REPUBLIC OF KENYA
IN THE BUSINESS PREMISES RENT TRIBUNAL
TRIBUNAL CASE E725 OF 2023
J OSODO, CHAIR & GAKUHI CHEGE, MEMBER
NOVEMBER 24, 2023**

BETWEEN

JESUS MOUNTAIN OF JOY MINISTRIES APPLICANT

AND

TERESIA WANJIKU CHEGE T/A NAIROBI FEEDS RESPONDENT

RULING

1. In the application dated 27th July, 2023, the tenant/applicant states as follows in his supporting affidavit of even date; -
 - “2. That the applicant is a church duly registered under section 10 of the [societies Act](#) Cap 108 Laws of Kenya. (Annexed herein and marked as PMN-1 is a copy of the certificate of registration)
 3. That I am a tenant of the respondent in respect to a church located in Kawangware Gathuru Road within Nairobi County.
 4. That I operate a church where the members of the applicant have been worshipping.”
2. The Tribunal’s jurisdiction is conferred by the [Landlord and Tenant \(Shops, Hotels and Catering Establishments\) Act](#) Cap. 301, Laws of Kenya in respect of controlled tenancies.
3. The applicant herein is a church as stated above which according to Oxford Advanced Dictionary, a Church is defined as follows:-

“A Christian house of worship, a building where Christian religious services take place”



4. It is therefore clear that the user of the suit premises is neither “a shop, hotel nor catering establishment” within the meaning and interpretation of Section 2(1) of Cap. 301, Laws of Kenya and this Tribunal lacks jurisdiction to adjudicate over the instant dispute.
5. Although the issue of jurisdiction has not been raised by either party before us, we are entitled to consider it on our own motion at any stage of the proceedings in line with the Court of Appeal decision in Jamal Salim v Yusuf Abdulahi Abdi & another Civil Appeal No. 103 of 2016 [2018] eKLR where it stated as follows: -

“Jurisdiction either exists or it does not. Neither can it be acquiesced or granted by consent of the parties. This much was appreciated by this Court in Adero & Another v Ulinzi Sacco Society Limited [2002] 1 KLR 577, as follows;

- 1)
 - 2) The jurisdiction either exists or does not ab initio ...
 - 3) Jurisdiction cannot be conferred by the consent of the parties or be assumed on the grounds that parties have acquiesced in actions which presume the existence of such jurisdiction.
 - 4) Jurisdiction is such an important matter that it can be raised at any stage of the proceedings even on appeal.”
6. Consequently, this Tribunal has no option but to down its tools in line with the *Locus Classicus* case of Owners of the Motor Vessel “Lillian S” v- Caltex Oil (Kenya) Ltd (1989) eKLR where it was held as follows at pages 8-9/27: -

“..... I think that it is reasonably plain that a question of jurisdiction ought to be raised at the earliest opportunity and the court seized of the matter is then obliged to decide the issue right away on the material before it. Jurisdiction is everything. Without it, a court has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law down tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction”.
 7. We therefore find and hold that this Tribunal has no jurisdiction to hear and determine the instant dispute and the same is a candidate for dismissal. The interim orders given in the matter having been issued in error ought to be discharged/set aside forthwith.

Orders

8. In conclusion, the following final orders commend to us;
 - a. This matter is struck out for want of jurisdiction and all Interim orders are discharged.
 - b. The tenant is at liberty to file the matter in an appropriate forum.

It is so ordered.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY THIS 24TH NOVEMBER 2023

HON. JOYCE AKINYI OSODO

(PANEL CHAIRPERSON)



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HON GAKUHI CHEGE

(MEMBER)

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In the presence of:

Miss Tom for Tenant/applicant

Miss Ngigi for Landlord/respondent

