



Munga & another (Both Suing as the Administrators of the Estate of the Late Patrick Muli Njoroge) v Alma Construction Co. Limited (Miscellaneous Application E086 of 2021) [2023] KEHC 27397 (KLR) (30 November 2023) (Ruling)

Neutral citation: [2023] KEHC 27397 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
MISCELLANEOUS APPLICATION E086 OF 2021
DO CHEPKWONY, J
NOVEMBER 30, 2023**

BETWEEN

DAVID NJOROGE MUNGA 1ST APPLICANT

ANASTACIA MUENI NZIOKA 2ND APPLICANT

**BOTH SUING AS THE ADMINISTRATORS OF THE ESTATE OF THE LATE
PATRICK MULI NJOROGE**

AND

ALMA CONSTRUCTION CO. LIMITED RESPONDENT

RULING

1. The Applicants have filed Notice of Motion Application dated 15th April, 2021 under section 18 (i) (b) (iii) 1(A), (B) and section 3A of the [Civil Procedure Act](#) and under Order 51 of the Civil Procedure Rules 2010.
2. The Applicants seek the following orders:-
 - a. That this Honourable court be pleased to transfer Kithimani SRMCC No. 436 of 2018 from Senior Resident Magistrate's Court at Kithimani to Chief Magistrate's Court Thika for hearing and determination.
 - b. That the costs for this application be in the cause.
3. The Application is based on the Supporting Affidavit of David Njoroge Munga sworn on 15th April 2021 and the grounds as set out in the Application which are as follows:
 - a. That Kithimani SRMCC No. 436 of 2018 is a claim for compensation for fatal injury in a road traffic accident.



- b. That the accident occurred along Thika-Matuu road near Ngoliba area within territorial jurisdiction of Thika Chief Magistrate's Court.
 - c. That the deceased was a pedal cyclist along Thika-Matuu road which is within the jurisdiction of Thika Chief Magistrate court.
4. The Application was served upon the Respondent who have not filed any document in opposition to the same. The ground which the Application is based on is territorial jurisdiction of the court.
 5. It is worth noting that at the time the court issued Directions in the matter, the Thika High Court had not been established. The said court has now been established vide Gazette Notice No. 11082 in the Kenya Gazette issued on 25th August, 2023.
 6. Having observed as above, the High Court in Kiambu then and now lacks lacks the territorial jurisdiction to hear and determine this matter. The same is therefore transferred to Thika High Court.
- It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 30TH DAY OF NOVEMBER, 2023.

D. O. CHEPKWONY

JUDGE

In the presence of:

Mr. Kamau counsel for the Applicant

No appearance for and by Respondent

Court Assistant - Martin

