



REPUBLIC OF KENYA



**Madiang’i v Obwombe & another (Miscellaneous Civil Application  
E002 of 2023) [2023] KEHC 26699 (KLR) (20 December 2023) (Ruling)**

Neutral citation: [2023] KEHC 26699 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
MISCELLANEOUS CIVIL APPLICATION E002 OF 2023**

**WM MUSYOKA, J  
DECEMBER 20, 2023**

**BETWEEN**

**PHILIP MADIANG’I ..... APPLICANT**

**AND**

**BOAZ OTIENO OBWOMBE ..... 1<sup>ST</sup> RESPONDENT**

**GODFREY WANDERA ANYIMO ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The application, dated July 20, 2023, seeks transfer of Busia CMCSC No. 557 of 2017 to the High Court, on grounds that the value of the estate, the subject of that cause, exceeds the pecuniary jurisdiction of the Chief Magistrate’s court. I have seen a valuation report, by LO Madende, dated July 18, 2023, which puts the market value of the estate at Kshs. 30, 000, 000.00.
2. The respondents have not addressed the issue of the value of the estate, but say the transfer sought is unwarranted, as there is nothing pending in the file, that the High Court will be required to determine.
3. The documents paced on record appear to show that the estate the court made orders on distribution of the estate, but I cannot tell whether the estate has been transmitted, and I cannot tell what is pending.
4. So that I do not make orders in vain, I shall have to peruse the trial court records first, before I determine the application one way or the other. Let the Deputy Registrar, therefore, call for the trial records, for my perusal. I shall determine the application thereafter. Orders accordingly.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT BUSIA THIS 20<sup>TH</sup> DAY OF  
DECEMBER 2023**

**W MUSYOKA**

**JUDGE**



Mr. Arthur Etyang, Court Assistant.

**Advocates**

Ms. Wakoli, instructed by Wakoli & Wakoli, Advocates for the applicant.

Mr. Okeyo, instructed by Okeyo Ochiel & Company, Advocates for the respondents.

