



REPUBLIC OF KENYA



KENYA LAW
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**Prabhakar v Imbosa (Miscellaneous Civil Application 8 of 2020)
[2022] KEHC 13456 (KLR) (23 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13456 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS CIVIL APPLICATION 8 OF 2020
WM MUSYOKA, J
SEPTEMBER 23, 2022**

BETWEEN

PATEL PRABHAKAR APPLICANT

AND

RICHARD CHACHA IMBOSA RESPONDENT

RULING

1. The application for determination is dated January 28, 2020. It principally seeks stay of execution of an order and a decree made in Kakamega PMCCC No 521 of 2012 pending appeal, and leave to file appeal against an undisclosed ruling delivered in and the decree made in the same suit.
2. The application is essentially unopposed, for there is no reply to it. That alone, however, would not be sufficient ground to grant the orders sought as prayed.
3. Firstly, the orders sought to be appealed against were made in 2013, and the applicant had a chance to appeal against them. He made efforts to, but the same were bungled, as appears from the rulings of March 8, 2018 and December 11, 2019 in Kakamega HCCA of 89 of 2013.
4. Secondly, a copy of the final judgment, from which the decree sought to be appealed against, is not attached. It would appear that the dispute arose from proceedings which had something to do with landed property. Under articles 162(2) and 165(5) of the *Constitution*, the High Court has no jurisdiction to determine disputes over land, and that extends to appeals arising from such disputes, where handled by the Magistrate's court. I will need to determine whether I have jurisdiction to entertain the current application, and I can only make that determination upon having sight of the pleadings that were filed at the trial court, as well as the final judgment of the said court.
5. As it is, the applicant has not furnished adequate information, to facilitate exercise of the discretion that he is inviting me to exercise. In the circumstances I am unable to grant the orders that he seeks.



**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 23RD DAY
OF SEPTEMBER 2022**

WM MUSYOKA

JUDGE

Erick Zalo, Court Assistant

Mr. Maranga, instructed by Maranga Nyang'ute & Company, Advocates, for the applicant.

Ms. Rauto, instructed by Rauto & Company, Advocates, for the respondent.

