



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KAKAMEGA**

**MISCELLANEOUS CIVIL APPLICATION NO. 98 OF 2018**

**BEN WASWA.....PLAINTIFF**

**VERSUS**

**ANDREW WAFULA NYONGESA.....DEFENDANT**

**RULING**

1. Directions were given by Njagi J. on 12<sup>th</sup> March 2019, for filing of written submissions on a Motion dated 6<sup>th</sup> December 2018. The matter was then allocated a date for mention on 9<sup>th</sup> May 2019
2. On 9<sup>th</sup> May 2019, the matter was placed before me instead of being placed before Njagi J. Issues were raised with regard to the directions of 12<sup>th</sup> March 2019 and I directed that the file be placed before Njagi J. that morning. .
3. When the parties appeared before Njagi J., they were directed to obtain dates at the registry. That they did on 9<sup>th</sup> May 2019, and they appeared before Njagi J. on 17<sup>th</sup> October 2019, when the Judge required them to come back before him on 6<sup>th</sup> November 2019.
4. On 6<sup>th</sup> November 2019, the matter was listed before me rather than before Njagi J. Although I directed, on that occasion, that I could rule on the Preliminary Objection, having gone through the record and noted that it was a matter that Njagi J. was seized of, it would only be right that the matter goes back to Njagi J.
5. The parties shall obtain dates at the registry for mention of the matter before Njagi J. for further directions. It is so ordered.

**DATED, SIGNED and DELIVERED at KAKAMEGA this 24<sup>th</sup> DAY OF January, 2020.**

**W. MUSYOKA**

**JUDGE**