

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL APPEAL NO. 67 OF 2014

KENYA POWER & LIGHTING CO. LTD.....APPELLANT

VERSUS

MATHENGE MINJA RIGUGA.....1ST RESPONDENT

KEIRU GATIKI.....2ND RESPONDENT

DIRECTIONS

This appeal arose from the judgment of the lower court delivered on the **11/12/2013 in Nyahururu Senior Principal Magistrates Court Case No. 361 of 2010** between the parties hereto.

Looking at the Amended plaint dated **23rd December 2010** the claim by the plaintiffs against the defendant was for compensation for damaged properties (trees) by the defendant in the plaintiffs land parcels as it lay electricity lines through the said land parcels, purportedly upon a way leave consent on the use of the plaintiffs land parcels.

Upon hearing the suit, the trial court found in favour of the plaintiffs and ordered compensation against the defendant, giving rise to this appeal.

The dispute was essentially over land use. The **Environment and Land Court** was established under **Section 4 of the Environment and Land Act NO. 19 of 2011. Section 13** of the Act gives the Land court original and appellate jurisdiction to hear and determine the disputes in accordance with **Article 162 (2) (b) of the Constitution**.

The High Court has no jurisdiction to hear any land disputes except, to finalise those that had been part heard before the establishment of the said court.

Being an appeal from the Magistrate's Court, the Environment and Land Court having appellate Jurisdiction, I decline to hear and determine the Appeal for lack of Jurisdiction.

For the above reasons, I hereby transfer the Appeal for disposal to the Environment and Land Court at Nyahururu which Court also has territorial Jurisdiction thereof.

The Deputy Registrar of this Court is directed to send the court file to the ELC Court at Nyahururu, where parties shall mention the appeal before the Judge for directions, taking into account that they have already filed their submissions.

Delivered, signed and dated at Nakuru this 12th day of March 2020.

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J.N MULWA

JUDGE.