



**Gekonge v Onkoba (Environment & Land Miscellaneous Case
E005 of 2023) [2023] KEELC 22605 (KLR) (25 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 22605 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT & LAND MISCELLANEOUS CASE E005 OF 2023**

JM KAMAU, J

OCTOBER 25, 2023

BETWEEN

BEN OBANGI GEKONGE PLAINTIFF

AND

FRANCIS ONKOBA DEFENDANT

RULING

1. This is an Application for transfer of a case from Keroka PM’s court to this court. There are no pleadings, from the Keroka Principal Magistrate’s Court to help this court appreciate the case that the applicant prays that it be transferred to this court. There are only typed proceedings attached to the miscellaneous Application where the trial Magistrate held : -

“... I will not grant any order but advice the parties to file same in a Court with jurisdiction to handle it”

2. It is the duty of the applicant to bring all the facts to the attention of the court that he seeks reliefs from. I am unable to tell whether this court has jurisdiction to entertain the matter filed at Keroka Principal Magistrate’s Court being MC ELC EO11/2023. It may as well be that this court has no jurisdiction to hear and determine the case for one reason or another. What was so difficult in the applicant attaching the pleadings of the Keroka case in this Application? Relying on article 159 of the Constitution of Kenya, 2010 does not help the applicant advance his cause. A court will be moved by the material before it and if the same are not sufficient enough to convince the court, article 159 2(d) of the Constitution of Kenya, 2010 will not help him. The Article talks of undue regard to technicalities. It is not an undue technicality to put the material necessary to arrive at a Decision before court. If every time a party comes to court unprepared he falls back to article 159 2(d) of the Constitution this will make Decision making a guess work. The Application dated 15/9/2023 is therefore declined. However, I will spare the applicant the cost of this Application since the respondent never participated in the same and also failure to attach the necessary documents to the Application cannot be attributed to the Applicant



RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 25TH DAY OCTOBER, 2023

HON. MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant – Brenda

Mr. Gichaba for the Applicant

Respondent – N/A

