

REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL NO. 48 OF 2016

BETWEEN

ZACHARIA KARANJA KINYANJUI APPELLANT

AND

GEORGE NGALA AWINO 1ST RESPONDENT

ELIZABETH KIASYO KYULU 2ND RESPONDENT

(Being an appeal from the Ruling and Order of Hon. P. Shinyada, SRM dated 11th October 2016 at the Chief Magistrates Court at Kisumu in Civil Case No. 48 of 2016)

RULING

1. This is an appeal from the ruling and order of the subordinate court where the learned trial magistrate dismissed an application to set aside an ex-parte order.
2. The subject matter of the case is a claim for Kshs. 380,000/- being the deposit arising from the sale of land parcel no. **KISUMU MUNICIPALITY/BLOCK 10/686**. The contract on which the claim is founded is for the sale of land hence the subject matter falls within and concerns title to land. This court has no jurisdiction to determine the matter by virtue of **Article 162(2)** of the Constitution as read with **section 13** of the *Environment and Land Court Act, 2011* which gives exclusive jurisdiction, including appellate jurisdiction, on matters concerning land to the Environment and Land Court.
3. The appeal is therefore transferred to the Environment and Land Court at Kisumu for hearing and disposal.

DATED and DELIVERED at KISUMU this 29th day of January 2018.

D.S. MAJANJA

JUDGE

Mr Mwamu instructed by Mwamu and Company Advocates for the appellant.

Mr Odongo instructed by Odongo Awino and Company Advocates for the respondent.