

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

MISCELLANEOUS CIVIL CASE NO. 19 OF 2015

JOHN MWANGANGI MUTIAPLAINTIFF

VERSUS

KASIMU MUTHANGYADEFENDANT

RULING

1. This file has been placed before me by **Makungu R.N.**, Deputy **Registrar** following an order made by **Ombata, R.**, Resident Magistrate, transferring the matter to **Mwingi Law Courts** for hearing and determination.
2. According to **Section 18(1)** of the **Civil Procedure Code**, it is the High Court that is seized of jurisdiction to transfer a suit instituted in a Subordinate Court to one that is competent to try it. Consequently the order made by the learned magistrate dated the 21st October, 2014 is null and void. Accordingly it is quashed.
3. The alluded to provision of the law gives this court power to act *suo moto* in making such an order of transfer. A perusal of the **Plaint** indicates that the land in issue is situated at **Migwani/Kyome** which is within the jurisdiction of **Mwingi Law Courts**. In the premises, it will be in the interest of justice for the matter to be heard by **Mwingi Law Courts**.
4. I therefore order that the case be and is hereby transferred to **Mwingi Senior Resident Magistrate's Court** for trial and disposal.
5. No orders as to costs.

DATED, SIGNED and DELIVERED at MACHAKOS this 19TH day of FEBRUARY, 2015.

L.N. MUTENDE

JUDGE