



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
MISC. APPLICATION NO. 49 OF 2014

BURKA JUDDA BAKE.....PLAINTIFF

VERSUS

MOHAMMED IBRAHIM SHIRE.....1ST DEFENDANT

ATTORNEY GENERAL.....2ND RESPONDENT

RULING

This application is dated 6th October, 2014. It seeks the following orders:

1. **THAT this Honourable court do certify this Application as urgent and the same be heard ex-parte in the first instance.**
2. **THAT this Honourable court be pleased to re-transfer this matter previously under Nairobi CMCC No.727 of 2002 which case had been transferred to Moyale Law courts on 16th June 2004 back to Nairobi for a fair and speedy trial.**
3. **THAT cost of this application be in the cause.**

It has the following grounds:

- (a) **THAT this matter had on 16th June, 2004 been transferred to Moyale Law Courts for a fair and speedy trial**
- (b) **THAT my efforts to have the same be given a case number and proceed for hearing has been fruitless.**
- (c) **THAT unless the orders sought herein are granted then I stand to suffer loss and damages.**

This court notes that it was at the instigation of the applicant in Milimani Commercial Courts Misc. Case No.316 of 2004, that the Hon. Justice Azangalala, J, on 16th June 2004 ordered that the defendant's suit in Milimani Chief Magistrate's Court Civil Case No. 727 of 2002 be transferred to Moyale Court for trial and disposal. He now wants the case to be returned to Nairobi.

In paragraph 7 of his supporting affidavit, the applicant has alleged collusion between the defendants and judicial authorities at Moyale. This is a serious allegation for which he has proffered no iota of verifying evidence. I agree with Mr. Kieti, for the A. G., for the 2nd defendant, that the plaintiff is merely engaging himself on a veritable forum shopping fishing expedition.

I cannot overrule a decision made by a Judge whose jurisdiction is horizontal to mine. The applicant

may have to make his application in Nairobi. However, I do not find any basis for reviewing the decision of the Hon. Justice Angalala, J, to transfer this suit to Moyale. In any case, the decision was made at the applicant's instigation.

In the circumstances, the applicant's application dated 6th October 2014 is dismissed with no order as to costs.

DELIVERED in Open Court at Meru this 22nd day of April, 2015 in the presence of:

Cc. Daniel

Burka Judda Bake – the applicant

P. M. NJOROGE

JUDGE