



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**CIVIL MISCELLANEOUS APPLICATION NO. 9 OF 2014**

**TIMOTHY MUTINDA NGANGA**

**NICHOLAS MBITHI MUTINDA** (*Suing as the widower, son and personal representatives of the estate of*

**SCHOLASTICA NDUNGE MUTINDA (Deceased)..... PLAINTIFFS**

**VERSUS**

**WAMBUA CHARLES ..... DEFENDANT**

**RULING**

1. In an application dated 3<sup>rd</sup> February 2014, the Applicant/Plaintiff seeks an order of this court transferring Makueni Principal Magistrate's Civil Case No. 3 of 2013 to the Chief Magistrate's Court Machakos for hearing and final disposal.
2. The application is premised on grounds that the defendant resides and carries on business at Mitaboni which is within Machakos District and the court nearest to it is Machakos Law Courts. Secondly, both the plaintiff and defendant reside in Machakos and the defendant shall not be prejudiced.
3. The application is unopposed.
4. The suit alluded to was instituted following a road traffic accident that occurred along Mbumbuni-Tawa Road which is near Machakos. Such a suit can be instituted where the defendant resides or where the cause of action arose. (*See Section 15 of the Civil Procedure Act*).

It has been stated that the defendant resides in Machakos. It will be in the interest of justice to have the case heard by a court in Machakos.

5. In the premises I do allow the application as prayed.

**DATED, SIGNED and DELIVERED at MACHAKOS this 20<sup>TH</sup> day of MAY, 2014.**

**L.N. MUTENDE**

**JUDGE**