



**REPUBLIC OF KENYA**

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

**CIVIL CASE NO. 233 OF 2012**

**JOSHUA MUSYOKA** (Suing for and on behalf of Independent Presbyterian church of Kenya .....  
.....**PLAINTIFF**

**VERSUS**

**JAPHETH MULANDI KITUI**

.....  
.....**RESPONDENT**

**RULING**

1. The Application dated 20<sup>th</sup> November 2012 filed by the defendant seeks to transfer this case to Garissa High Court or Mwingi Law Courts for hearing and final disposal. It is premised on the grounds that the cause of action arose at Kalisasi in Mwingi which is within the jurisdiction of Garissa High Court where the case should have been filed at the first instance and that no prejudice will be suffered by either party if the suit is transferred.
2. In the affidavit in support of the application **Japheth Mulandi**, the Applicant depones that the High Court, Garissa is seized of jurisdiction to determine the case which the church congregation has an interest of attending; travelling to Machakos will be very expensive as it is far away from where the church is situated.
3. The application is unopposed.
4. Accessibility of justice is paramount when it comes to dispensation of the same. It would be unjust to subject parties to hardship when it comes to attendance of Courts due to the distance.
5. Consequently, using my discretion under Section 18 of the Civil Procedure Act, I hereby transfer this case to Garissa High Court for hearing and determination.
6. Costs of the application shall be in the cause.
7. Mention at Garissa High Court on **21/10/2013**.
8. It is so ordered.

**DATED, SIGNED and DELIVERED at MACHAKOS this 26<sup>TH</sup> day of SEPTEMBER 2013.**

**L.N. MUTENDE**

**JUDGE**