

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

MILIMANI LAW COURTS

Miscellaneous Civil Application 87 of 2011

LIVINGSTONE WAIYAKI KARANJA.....APPLICANT

-AND-

BEATRICE WANJIRU GITITU.....RESPONDENT

RULING

The Applicant, Livingstone Waiyaki Karanja, seeks transfer of Children’s Case No.1 of 2010 from Kikuyu Children Court to another court of competent jurisdiction. In his application dated 24.8.2011, supported by his affidavit sworn on that date, the Applicant alleges that the Honourable Magistrate presiding over the case “*leans towards the Respondent and does not take the best interest of the Children into consideration.*”

The Applicant appeared in person and urged the court on 11.11.2011 to grant him the order for the transfer of the case from Kikuyu.

Mr. Karanja, Advocate, of Karanja Otunga & Co. Advocates opposed the application which he termed as abuse of the court process.

I have perused the application and given due consideration to the submissions made by the Applicant and the Respondent through his counsel. I am unable to find material or any proof that the presiding judicial officer is biased in favour of the Respondent. Nor is there evidence that he does not take into consideration the best interest of the children. If the allegation of bias was true, it would be reason sufficient enough to justify transfer of the case to another court. In the absence of such proof, there is no basis for transfer of the case nor are there grounds either on which the judicial officer in the said court can be said to have acted in a manner that will impede justice.

In these circumstances, I do not find any merit in the application which I hereby dismiss with costs.

Dated at Milimani Law Courts, Nairobi, on this 19th day of January 2012.

G.B.M. KARIUKI, SC
JUDGE

COUNSEL APPEARING

Mr. P. K. Wachira of Karanja Otunga & Associates, Advocates for the Respondent

Mr. David Musyoka, Court Clerk