

REPUBLIC OF KENYA
HIGH COURT AT EMBU
MISCELLANEOUS CIVIL APPLICATION 36 OF 2010

PHILIS WANYAGA NJIRU.....
.....PLAINTIFF

VERSUS

MICHAEL NYAGA KARUGENDO.....
.....DEFENDANT

RULING

This is an Application under Section 47 of the Law of Succession Act and Rules 59 and 73 Probate and Administration Rules for an order of transfer of Kerugoya Principal Magistrate's Succession Cause No. 138 of 2007 to High Court Embu for further hearing and disposal.

The reason is that the Principal Magistrate's court Kerugoya lacks jurisdiction. The Application is based on the grounds on the face of the Application plus the supporting affidavit.

The property in issue is over 10 hectares and it ought to have occurred to the counsel and the trial court that the value exceeded the jurisdiction of any subordinate court dealing with succession matters under special jurisdiction under Cap 160.

I therefore allow the application and direct that Kerugoya Principal Magistrate's Succession cause No. 138/2007 be and is hereby transferred to Embu High Court for further hearing and disposal.

Costs to be born out of the estate. Orders accordingly.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT EMBU THIS 18TH DAY OF OCTOBER 2011.

H.I. ONG'UDI
JUDGE