



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT MACHAKOS  
Miscellaneous Application 155 of 2008**

**PETER PAUL MUTHOKA .....PLAINTIFF**

**VERSUS**

**NICHOLAS MAINGI MUTUA ..... DEFENDANT**

**RULING**

1. The Application dated 1.8.2008 seeks orders under section 3A and section 18(1) (b) and (2) of the Civil Procedure Rules that SRMCC No. 171/2004(Kangundo) be transferred to this court for hearing and determination. The reason given is that ***“the claim for general and special damages pleaded in the plaint exceeds the pecuniary jurisdiction of any subordinate court.”***  
In other words the Kangundo court has no jurisdiction whatsoever to hear and determine the matter.
2. I will quickly dismiss the Application because it has been said time and time again that without jurisdiction, there is nothing and out of nothing no benefit or advantage can accrue. If that be so, can transfer, of a case in the nature sought, be allowed? I submit that it cannot because transfer cannot cure a nullity. I wholly agree with the Respondent that the Application is for that reason incompetent and bad in law and I hereby order that it be dismissed with costs to the Respondent.
3. Orders accordingly.

**ISAAC LENAOLA**

**JUDGE**

Countersigned and delivered at **Machakos** this **19<sup>th</sup>** day of **March 2010**.