



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (MILIMANI COMMERCIAL COURTS)**  
**Civil Case 192 of 2010**

EQUITY BANK LIMITED..... PLAINTIFF/RESPONDENT  
VERSUS  
IRENE JACQUELINE WASIKE..... DEFENDANT/APPLICANT

**RULING**

1. The notice of motion dated 3<sup>rd</sup> June 2010 seeks for orders that this suit be transferred to the Chief Magistrate's Court at Milimani Commercial Courts for trial and final disposal. This application is made by the defendant and it is predicated on the grounds that the pecuniary jurisdiction of the Chief Magistrate can adequately resolve the liquidated claim sought by the plaintiff. Secondly, a suit should be filed before the lowest grade to handle it. Moreover this suit will be handled more expeditiously by the Chief Magistrates Court at reduced costs.
2. This application was opposed by the plaintiff; reliance was placed on the replying affidavit by **Purity Kinyanjui** sworn on 9<sup>th</sup> June 2010. The plaintiff is of the view that the claim for Ksh.2,197,171.93 when the aspect of costs and interest is factored in, will be higher than the jurisdiction conferred upon the Chief Magistrate's Court. She urged the court to dismiss the application.
3. The plaintiff's claim is for a sum of Ksh.2,197,171.93 with interest at 24% per annum. Although interest is an exercise of the trial court's discretion. Under the provisions of **Section 11**, this suit should have been filed before the Chief Magistrate Courts whose pecuniary jurisdiction is up to Kenya Shillings three (3) million. Under **Section 18 of the Civil Procedure Act** this court has power to transfer the suit from this court to the subordinate court competent to try and dispose of the same. And the court can even do so **suo motto**.
4. The Chief Magistrate's court pecuniary jurisdiction is Ksh.3 million therefore that court is competent to try and dispose this matter. I order it be transferred to the Chief Magistrate's Court immediately and the suit be mentioned on 30th June 2010 with a view of taking directions as to the hearing. Costs of this application shall be in the cause.

**RULING READ AND SIGNED ON 25<sup>TH</sup> JUNE 2010 AT NAIROBI.**

**M.K. KOOME**  
**JUDGE**