

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

HC CIVIL CASE NO. 23 OF 2006

JAMES WANJOHI WARUI.....PLAINTIFF

VERSUS

JAMES MURIITHI MWANGI.....DEFENDANT

RULING

In this case the only claim prayed for is a small sum of Shs. 120,000/= the provision of Civil Procedure is clear on the issue of the jurisdiction on claims.

Also see the Magistrate's Courts Act. Filing of this suit in the High Court is abuse of court process. The plaint should not have been accepted in this court registry. However the Defendant applicant has filed a Statement of Defence raising some issues which should be canvassed in court. I am of the opinion that justice will be done between the parties by sending this suit for hearing and determination in ***Resident Magistrate's Court in Kerugoya***. This court has jurisdiction to hear all matters in the Republic it is for this reason that I do not find the suit as having been filed in a court without jurisdiction in which case this suit would have been struck off.

I order this suit to be transferred to Kerugoya Resident Magistrate's Court. Plaintiff to pay costs incurred today to the defendant.

J. N. KHAMINWA

JUDGE

16th Jan 2008