



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Civil Suit 459 of 2008

CROSSLEY HOLDINGS LTD.....PLAINTIFF

- *VERSUS* -

NAGENDRA SAXENA.....1<sup>ST</sup> DEFENDANT

JOHN GITAU KIMANI T/A JOGI AUCTIONEERS.....2<sup>ND</sup> DEFENDANT

MWANI SUGAR MILLS LTD.....3<sup>RD</sup> DEFENDANT

MWANI SUGAR CO. (1989) LTD IN RECEIVERSHIP.....4<sup>TH</sup> DEFENDANT

R U L I N G

It is clear to this court that this application lacks merit. **Section 60** of the **Constitution** grants this court unlimited jurisdiction, both territorially and pecuniary. Unless there is a compelling reason, this court cannot transfer a suit from one court to the other. Mr. Otieno pleads that the subject matter of the suit, the suit property, is within the geographical jurisdiction of the High Court sitting at Kisumu. He has also submitted that it would be to the convenience of the parties if the suit is heard and determined at Kisumu. All the other parties to this suit are of contrary view. They insist that it would be convenient for both the litigants and their advocates for this suit to be heard and determined at the place it was filed i.e. Nairobi.

I agree with the submissions made by the respondents. The applicant has placed no compelling or overwhelming reason to persuade this court to order the transfer this suit from this court to the High court sitting at Kisumu. I think the basis of the applicants' application is informed by their understanding of the geographical restriction placed in respect cases filed in the subordinate courts by the **Civil Procedure Act**. The same restriction does not apply to the High Court. Although this court has jurisdiction to transfer this suit to any court in the country, in the circumstances of this application, no sufficient grounds have been placed before this court to enable such a transfer.

The notice of motion dated the 16<sup>th</sup> September 2008 lacks merit. It is hereby dismissed with costs to the respondents.

**DATED AT NAIROBI THIS 29<sup>TH</sup> DAY OF SEPTEMBER 2008.**

**L. KIMARU**

**JUDGE**