



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

**MISC APPLI 46 OF 2006**

**RIOKI ESTATE COMPANY (1970) LTD .....APPLICANT**

**V E R S U S**

**PAUL KIGOCHI MWAURA .....RESPONDENT**

**R U L I N G**

There has been considerable delay in the preparation and delivery of this ruling. The same was occasioned by my serious illness in 2006 and the long attendant recuperation. The delay is regretted.

This is an application (by notice of motion dated 19<sup>th</sup> January, 2006) for transfer of **Nairobi CMCC. No. 8223 of 2005** from the Chief Magistrate's Court at Milimani to the Senior Resident Magistrate's Court at Kiambu. The application is made under section 18 of the Civil Procedure Act (the Act). The Applicant is the plaintiff in the suit while the Respondent is the defendant.

The grounds for the application appearing on the face thereof are that the plaintiff carries on business at its principal offices in Kiambu and has its witnesses there; that the defendant resides and works for gain in Kiambu; that it will be onerous to the parties if the matter is heard in Nairobi; that no rights have accrued to the defendant yet and he will not be prejudiced by the transfer; and that it is in the interests of justice that the application be allowed. The application is supported by the affidavit of one DAVID N. CHUCHU, the chairman of the Applicant.

The Respondent was dully served with the application and hearing notice as is evidenced by the affidavit of service filed on 28<sup>th</sup> July, 2006. He did not file any response; nor was there any appearance for him at the hearing of the application. The application is thus unopposed.

I find no reason not to allow it and I will allow it. **Milimani CMCC No. 8223 of 2005** is hereby withdrawn from the Chief Magistrate's Court, Milimani and transferred to the Senior Resident Magistrate's Court at Kiambu for disposal. Costs of the application shall be in the cause. Orders accordingly.

**DATED AT NAIROBI THIS 28<sup>TH</sup> DAY OF AUGUST, 2007**

**H. P. G. WAWERU**

**J U D G E**

**DELIVERED THIS 31<sup>st</sup> DAY OF AUGUST, 2007**