



Kizamiz Enterprises Limited v Parkinaro (Environment and Land Miscellaneous Application E003 of 2022) [2022] KEELC 15428 (KLR) (20 December 2022) (Ruling)

Neutral citation: [2022] KEELC 15428 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E003 OF 2022
MN GICHERU, J
DECEMBER 20, 2022**

BETWEEN

KIZAMIZ ENTERPRISES LIMITED APPLICANT

AND

KITAO OLE RUPANTE PARKINARO RESPONDENT

RULING

1. This ruling is on the notice of motion dated February 7, 2022. The said motion which is under sections 1A, 1B, 3A and 18 of the [Civil Procedure Act](#), seeks to have Kajiado Chief Magistrate's ELC No E019/2021 Kitao Ole Rupate Parkinaro v Kizamiz Enterprises Limited transferred from the lower court to this court for hearing and determination.
2. The application is supported by an affidavit sworn by the applicant with eight annexures and twelve grounds. A summary of the above material is that the case in the lower court needs to be transferred to this court because the applicant herein who is the defendant in the lower court has filed a counterclaim of Kshs 229, 121, 071.20 which is outside the pecuniary jurisdiction of the lower court.
3. The application is opposed by the respondent who has filed a replying affidavit dated May 19, 2022 in which he deposes that the Applicant has not adduced any evidence to prove that the counter claim exceeds the limit of Kshs 20, 000,000/= which is the pecuniary jurisdiction of the lower court.
4. Only the respondent's counsel filed written submissions on December 14, 2022. No submissions were filed by the applicant's counsel.
5. I have carefully considered the notice of motion dated February 7, 2022 in its entirety including the affidavits, annexures, grounds in support, the written submissions as well as the case law cited therein. I find that the application has merit and I allow it for the following reasons:



1. Firstly, I find that the pecuniary jurisdiction of the chief magistrate is limited to Kshs 20,000,000/- and any claim beyond that amount should be heard and determined by the High Court.
 2. Secondly, since the pleadings are not yet closed, it is too early to look at the material filed by the parties in support of their case. It is only after the order of transfer is made that we will look at what has been filed by each party.
6. For the above reasons, I allow the notice of motion dated February 7, 2022.

It is so ordered.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 20TH DAY OF DECEMBER, 2022.

M N GICHERU

JUDGE

