

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

Revision Case 2 of 2005

IN THE MATTER OF KANGUNDO SRMCC NO. 6 OF 2004

PHILIP MUNYAKA PLAINTIFF
VERSUS
THE CHAIRMAN, PARENTS TEACHERS ASSOCIATION, NGULUNI TOWN
PRIMARY SCHOOL DEFENDANT

RULING

The Senior Resident Magistrate, Kangundo Law Courts on 9/9/05 purported to transfer the Kangundo Court's Civil Suit No. 6 of 2004 to the Chief Magistrate's Court at Machakos without appreciating that he has no powers to do so. The case has for that reason been brought to my attention.

It is my view that it is only the High Court which has power to transfer a case from one subordinate court to another under Section 17 and 18 of the Civil Procedure Act, Cap 21 of the Laws of Kenya. I accordingly rule that the purported transfer of the said suit to this court is null and void. This means that the suit was not transferred and still remains the Kangundo SRMCC No. 6 of 2004.

Noting however that the said magistrate may have good reason for wanting the case to be transferred elsewhere, I now hereby transfer the said suit to Chief Magistrate's Court at Machakos for the purpose of registering the same, hearing it and finally determining the same as circumstances will allow. The suit will be mentioned before the Machakos Chief Magistrate on a day for civil suits for further directions. It is so ordered.

Dated and delivered at Machakos on the 10th day of November 2005.

D.A. ONYANCHA

JUDGE