



- 1) Civil Practice & Procedure
- 2) Preliminary Objection
- 3) That the High court of Kenya has no jurisdiction to hear this suit when sitting at Nairobi
- 4) Held:- That the High Court has unlimited jurisdiction
- 5) Statute law:-
  - a) Constitution of Kenya section 60(1)
  - b) Judicature Act Section 3(1) (a)Cap. 8 Laws of Kenya.

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CIVIL CASE NO. 2155 OF 2000**

**AGUSTA MUTITU NJERU ..... PLAINTIFF**

**VERSUS**

**KENYA BUS SERVICES LTD. ....DEFENDANT**

**RULING**

**ON A PRELIMINARY OBJECTION**

The advocate for the defence raises a Preliminary Objection to this suit. This is that:-

“The High Court of Kenya sitting at Nairobi has no jurisdiction to hear this case.”

The reason being that of geography location. This case is a running down suit whereby an accident occurred involving the defendants vehicle along the Meru-Chuka road. The deceased is alleged to be a fare paying passenger in the said vehicle.

The advocate for the defendant submits that the court has no jurisdiction to hear this case because the accident having occurred along the Meru-Chuka road was indeed within the jurisdiction of the High court of Kenya at Meru and not the High court of Kenya at Nairobi.

The advocate for the plaintiff in reply disagreed with this arguments stating that the defendants have their registered offices in Nairobi and as such the suit is correctly filed in Nairobi.

From the arguments of both advocates it seems as if their minds are on section 15 of the Civil Procedure Act. This section reads:-

“Subject to limitation aforesaid, every suit shall be instituted in a court within the local limits of whose jurisdiction :-

a) The defendant or each of the defendants (where there are more than one) at the time of the commencement of the suit, actually and voluntarily resides or carries on business, or personally works for gain or;

b) Any of the defendants (where there are more than one) at the time of the commencement of the suit actually and voluntarily resides or carries on business or personally works for gain, provided either the leave of court is given on defendants who do not reside or carry on business, or personally work for gain as aforesaid acquiesce in such institution or;

c) The cause of action wholly or in part arises:-

Explanation 1 \_\_\_\_\_

Explanation 2 \_\_\_\_\_

Explanation 3 \_\_\_\_\_

i) \_\_\_\_\_

ii) \_\_\_\_\_

iii) \_\_\_\_\_

Illustration (a) \_\_\_\_\_

Illustration (b) \_\_\_\_\_ ”

This section refers to the subordinate courts and not to the High Court.

I further would be guided by the Constitution of Kenya Section 60(1) that reads:-

“There shall be a High Court, which shall be a superior court of record, and which shall have unlimited original jurisdiction in civil and criminal matters and such other jurisdiction and powers as may be conferred on it by this constitution or any other law.

2) \_\_\_\_\_

3) \_\_\_\_\_

4) \_\_\_\_\_

5) \_\_\_\_\_ ”

The Judicature Act Cap 8 Laws of Kenya states Section 3(1) as follow:- “The jurisdiction of the High court, the court of appeal and of all subordinate courts shall be exercised in conformity with:-

a) The constitution

b) \_\_\_\_\_

c) \_\_\_\_\_

2) \_\_\_\_\_ ”

The constitution of Kenya gives all the High Court of Kenya unlimited jurisdiction. This jurisdiction includes the hearing of suit filed from which ever part of Kenya. Further it is noted that the Chief Justice may make rules.

I therefore find the Preliminary Objection has no merits. The same is hereby dismissed with costs to the plaintiff/respondent.

Dated this 16th day of February 2004 at Nairobi..

**M.A. ANG'AWA**

**JUDGE**

Wairagu & Wairagu & Co. Advocates for the plaintiff

Kantai & Co. Advocates for the defendants