

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO.2440 OF 1999

DORCAS ANDAHWAPLAINTIFF

VERSUS

MATHAN WASHIKO FEDHA DEFENDANT

RULING

The parties to this suit are married couples who have stayed together for over 40 years. They have been blessed with children who are of age. Seemingly their love has gone, and a divorce case has been filed in Kitale being D.C. No.4 of 1999. This is unfortunate considering their ages and family.

Counsel for the wife filed a suit in this court by way of originating summons under the Married Women Property Act seeking orders to declare that the family property which includes both moveable and immovable was jointly acquired and that the same be shared equally. The OS was accompanied by an application under certificate of urgency seeking orders that pending the hearing and disposal of this suit the Respondent be restrained from selling charging or transferring various properties named therein. In the meantime counsel for the defendant/Respondent has filed an application by way of chamber summons seeking among others that the arguing of the injunction application be postponed and that the whole suit be transferred to Kakamega High court of Bungoma High court.

Both applications are pending. It was the Plaintiff/applicant's application which was coming for hearing to day to which counsel for the defendant/respondent applied for adjournment which application was opposed and hence this ruling.

The parties come from Trans-Nzoia District and where they reside. They have filed a divorce cause at Kitale Law courts. There is a High court at Eldoret. Bungoma and Kakamega. This OS ought not to have been filed in the High Court Nairobi in the first place, as it would be expensive and cause a lot of inconveniences for both parties.

Accordingly I order that this suit be transferred to Bungoma High court forthwith. Costs to be in the cause.

2nd February, 2000

J.L.A. OSIEMO

JUDGE