



**Laitobir v Kogo & another (Miscellaneous Case E006 of 2025)
[2025] KEELC 486 (KLR) (11 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 486 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
MISCELLANEOUS CASE E006 OF 2025
GMA ONGONDO, J
FEBRUARY 11, 2025**

BETWEEN

AILEEN JEPLETING LAITOBIR APPLICANT

AND

CHARIT KIRWA KOGO 1ST RESPONDENT

SUSANA TARWEN 2ND RESPONDENT

RULING

1. By a Notice of Motion dated 3rd February 2025 initiated under, inter alia, sections 1A, 1B, 3, 3a 11 12, 15 and 18 of the *Civil Procedure Act* Chapter 21 Laws of Kenya, the applicant, Aileen Jepleting Laitoboir through Lagat Joshua and Company Advocates, is seeking the orders infra:
 - a. That this Honourable Court be pleased to call into this honourable court Kabiyet ELC NO E019 of 2024 for purposes of hearing and determination of the same before this honourable court.
 - b. That, the costs of this application be provided for.
- 2). In a nutshell, the applicant claims ownership of a portion of land measuring 4.2 acres in the suit property namely Land Reference number Nandi/Kebulonik/596 for having adversely possessed it for over 12 years. That following a recent judicial pronouncement in the Court of Appeal that the Magistrate Court lacks jurisdiction to hear and determine matters relating adverse possession there is need to have the matter in Kabiyet transferred before this honourable court for hearing and determination.
- 3). Mr Sang instructed by Choge learned counsel for the respondents has no objection to the application.
- 4). In that regard, is the application meritorious?



- 5). The applicant states that the magistrate's court at Kabiyet lacks jurisdiction in respect of adverse possession claim sought in the suit. It is trite that lack of jurisdiction renders a court's decision void; see *Republic-vs-Karisa Chengo & 2 others* (2017) eKLR.
- 6). The suit pending at Kabiyet magistrate's court relates to adverse possession. By the Court of Appeal decision in *Sugawara vs Kiruti* (Sued in her capacity as the Administratrix of the Estate of Mutarakwa Kiruti Lepaso alias Mutaragwa Kiruti Lepaso alias Mutaragwa Kiroti Lepaso and in her own capacity & 3 others) [2024] KECA 1417 (KLR), that court lacks jurisdiction over the dispute.
- 7). Therefore, I find the application firm and merited.
- 8). Accordingly, the application is hereby allowed in terms of order number 3 sought therein as stated in paragraph 1 (a) hereinabove.
- 9). Costs of the application to abide the outcome of this suit.
- 10) It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 11TH DAY OF FEBRUARY 2025.

HON. GEORGE M A ONGONDO

JUDGE

Present;

Mr. Sang instructed by Choge, Learned Counsel for the applicant

Mr. Joshua Lagat, Learned Counsel for the respondents

Walter, Court Assistant

