



Cherobon v Kemboi & another (Environment and Land Miscellaneous Application E001 of 2025) [2025] KEELC 3572 (KLR) (6 May 2025) (Ruling)

Neutral citation: [2025] KEELC 3572 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E001 OF 2025
GMA ONGONDO, J
MAY 6, 2025**

BETWEEN

HELLAN CHEROBON PLAINTIFF

AND

SIMOTWO ARAP KEMBOI 1ST DEFENDANT

MERCY CHERONO KIBIEGO (SUING AS LEGAL REPRESENTATIVE OF THE LATE SIMION KEMBOI - DECEASED) 2ND DEFENDANT

RULING

1. This ruling relates to an application by way of the Notice of Motion dated 28th January 2025 by the applicant through Kipkosgei Choge and Company Advocates for the following principal orders;
 - a. the Hon, Court be pleased to Order and call for Kapsabet Magistrates Court E&L case No 051 of 202 for Orders that the that case be Transferred to this Court for Hearing and Determination.
 - b. That it is further proposed to the Court for an Order that the matter to proceed for Hearing as Proposed and Applied for by the Applicant and pursuant to Section 1A,1B ,3 and 3A of the *Civil Procedure Act* Chapter 21, Laws of Kenya alongside Section 13 of the *Environment and Land Court Act* and in view of the character of the dispute, it be ordered and directed that there be a hearing on priority basis with the Plaintiff attending accordingly.
2. The application is premised upon the grounds. Inter alia;
 - (a) That the Plaintiff had filed suit no 100 of 2020 before the Environment and Land court in Eldoret that was Transferred to the Magistrates Curt on account of its Value and territorial jurisdiction.



- (b) That this Hon. Court has jurisdiction to make Orders or give directions if considers appropriate to meet the ends of justice.
3. Mr Choge learned counsel for the applicant has implored the court to allow the application
 4. The application is not opposed.
 5. Upon careful consideration of the application in entirety and being guided 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 Mutarakwa Kiruti Lepaso alias Mutaragwa Kiroti Leposo and in her own Capacity & 3 others* (2024) eKLR on jurisdiction over adverse possession claims and *Republic-vs-Karisa Chengo & 2 others* (2017) eKLR on jurisdiction generally, I find the application firm and meritorious.
 6. Accordingly, the application is hereby allowed in terms of orders 2 and 3 sought in the application as stated in paragraph 1 (a) and (b) hereinabove.
 7. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 6TH DAY OF MAY 2025.

G M A ONGONDO

JUDGE

PRESENT;

Mr Choge learned counsel for the applicant

Mr Walter Kipkorir, court assistant

