



Lagat & another v Cheruiyot (Environment & Land Miscellaneous Case E001 of 2025) [2025] KEELC 3568 (KLR) (6 May 2025) (Ruling)

Neutral citation: [2025] KEELC 3568 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT & LAND MISCELLANEOUS CASE E001 OF 2025**

GMA ONGONDO, J

MAY 6, 2025

BETWEEN

PAUL LAGAT 1ST APPLICANT

RODHA LAGAT 2ND APPLICANT

AND

ROSALINE JEPTUM CHERUIYOT RESPONDENT

RULING

1. By the Notice of Motion application dated 13th January 2025, the applicants through Lagat Joshua and Company Advocates are seeking the following principal order that this Honourable Court be pleased to call into this Honourable Court, Kapsabet Chief Magistrate’s court Land Case number E020 of 2023 for purpose of transferring the same to this Honourable Court for hearing and determination.
2. The application is founded upon grounds which include;
 - (a) The Plaintiff instituted the suit herein before Kapsabet Chief Magistrate Court as Land case number 20 of 2023 seeking eviction of the applicants herein.
 - (b) During the pendency of the said proceedings the Court of Appeal in Nairobi Civil Appeal number E141 of 2022 rendered a judgment to the effect that issues adverse possession is the preserve of Environment and Land Court.
 - (c) It is apparent that Kapsabet Chief Magistrate court lacks jurisdiction to entertain the counter claim in the said suit as currently constituted.
3. Mr Lagat learned counsel for the applicants has implored the court to allow the application.
4. Mr Tarigo learned counsel for the respondent has no opposition to the application.



5. Having considered the entire application and subscribing to the Court of Appeal decision in *Sugawara v 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 the Supreme Court of Kenya decision in the case of *Republic v Karisa Chengo & 2 others* (2017) eKLR on jurisdiction generally, I find the application steadfast and merited.
6. In the upshot, the application is hereby allowed in terms of order 3 sought in the application as stated in paragraph 1 hereinabove and the application in entirety is disposed of accordingly.
7. It is so ordered.

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

G M A ONGONDO

JUDGE

Present;

Mr Lagat learned counsel for the applicants

Mr Tarigo learned counsel for the reespondent

Mr Walter Kipkorir, court assistant

