



**Moi v Manyasi (Environment and Land Miscellaneous Application
E015 of 2025) [2025] KEELC 3773 (KLR) (7 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3773 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E015 OF 2025
GMA ONGONDO, J
MAY 7, 2025**

BETWEEN

EVANS DEMESI MOI APPLICANT

AND

MUKANGALA MANYASI RESPONDENT

RULING

1. By a Notice of Motion dated 28th January 2025, the applicant through Kipkosigei Choge and Company Advocates is seeking the orders infra;
 - a. That the Honourable Court be pleased to order and call for Kapsabet Magistrates Court E&L Case No. E035 of 2021 for orders that the Honourable Court, be pleased to order and direct that case be transferred to that court for hearing and determination.
 - b. That it is further proposed the court for an order that the matter be proceed for hearing as proposed and applied for by the Applicant and pursuant to Sections 1A,1B,3 and 3A of the [Civil Procedure Act](#) Chapter 21 Laws of Kenya alongside Section 13 of the Environment & Land Court Act, in view of the character of the dispute, it be ordered and directed that there be a hearing on priority basis with the Plaintiff amending accordingly.
2. In the supporting affidavit, it is averred, inter alia;
 - a. That the Plaintiff had filed suit No. E035 of 2021 (O.S) before the Magistrate’s court in Kapsabet on adverse possession.
 - b. That a Court of Appeal Decision has determined that a Magistrates’ Court has no jurisdiction to hear and determine a suit on adverse possession.
3. There is no response to the application.



4. Mr Choge learned counsel for the applicants has urged the court to allow the application.
5. I have considered the application in entirety.
6. By the character of the plaintiff's claim 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, the magistrate's court lacks jurisdiction over the suit.
7. Moreover, in the case of *Republic-vs-Karisa Chengo & 2 others* (2017) eKLR, the Supreme Court of Kenya held that lack of jurisdiction renders a court's decision void.
8. So, I find the application steadfast, cogent and merited.
9. In the result, the instant application, be and is hereby allowed in terms of orders 2 and 3 sought therein as stated in paragraph 1 (a) and (b) hereinabove.
10. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 7TH DAY OF MAY 2025.

G M A ONGONDO

JUDGE

PRESENT;

Mr Choge learned counsel for the applicant

Mr Walter Kipkorir, court assistant

