



**Tuitoek v Kogo & another (Environment & Land Miscellaneous Case  
E003 of 2025) [2025] KEELC 3582 (KLR) (6 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3582 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT & LAND MISCELLANEOUS CASE E003 OF 2025**

**GMA ONGONDO, J**

**MAY 6, 2025**

**BETWEEN**

**NEHEMIAH KIPLAGAT TUITOEK ..... APPLICANT**

**AND**

**CHARIT KIRWA KOGO ..... 1<sup>ST</sup> RESPONDENT**

**SUSANA TARWEN ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The instant ruling pertains to an application by way of Notice of Motion dated 20<sup>th</sup> January 2025 by the applicant through Lagat Joshua and Company Advocates for principally, that this Honourable Court be pleased to call into this Honourable Court, Kabiyet Magistrate's Court Case number E027 of 2024 for purpose of transferring the same to this Honourable Court for hearing and determination.
2. The application is founded upon the grounds which include;
  - (a) The applicant instituted a suit against the respondents to be declared to have acquired adverse possession of 5.75 acres of the suit land parcel known as Nandi/Kebuloni.
  - (b) During the pendency of the said proceedings the Court of Appeal in Nairobi Civil Application E41 of 2022 rendered a judgment to the effect that issues adverse possession is the Environment and Land Court.
3. Mr Lagat learned counsel for the applicant has implored the court to allow the application
4. The application is not opposed by Mr Choge learned counsel for the respondents.
5. The application was commenced under Section 1A,1B,3.3A, section 11,12,15 and 18(e) of the *Civil Procedure Act*, Order 51 Rule 1 and 3 of the *Civil Procedure Rules* 2010, section 17,38 of the *Limitation of Actions Act*, Article 159 of the *Constitution of Kenya* 2010 and I bear in mind the same.



6. I have duly considered the application in entirety. This court is guided by 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 *Republic v Karisa Chengo & 2 others* (2017) eKLR on jurisdiction generally. So, I find the application firm and meritorious.
7. Wherefore, the application be and is hereby allowed in terms of orders 3 sought in the application as stated in paragraph 1 hereinabove thus, the entire application is thereby disposed of.
8. It is so ordered.

**DATED AND DELIVERED AT KAPSABET THIS 6<sup>TH</sup> DAY OF MAY 2025.**

**G M A ONGONDO**

**JUDGE**

Present;

Mr Lagat learned counsel for the applicant

Mr Choge learned counsel for the respondents

Mr Walter Kipkorir, court assistant

