



**Kisorio v Kampure (Environment & Land Miscellaneous Case  
7 of 2023) [2023] KEELC 18777 (KLR) (10 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18777 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO  
ENVIRONMENT & LAND MISCELLANEOUS CASE 7 OF 2023**

**PM NJOROGE, J**

**JULY 10, 2023**

**BETWEEN**

**JOHN KIBEREN KISORIO ..... PLAINTIFF**

**AND**

**GALM WAKO KAMPURE ..... DEFENDANT**

**RULING**

1. This application is dated April 20, 2023 and seeks the following orders;
  1. That this application be certified as urgent and be heard ex-parte in the first instance.
  2. That pending the hearing and determination of this application this Honourable Court be pleased to stay the proceedings in Isiolo MELC E011 of 2022.
  3. That this Honourable Court be pleased to order transfer of Isiolo MELC E011 of 2022 to Maua Law Courts for hearing and determination.
  4. That upon the grant of the order of transfer, this Honourable Court be pleased to order that, the same be mentioned before a duty court on priority basis.
2. The application has the following grounds;
  - i. That the respondent herein filed a suit in the Principal Magistrate's Court at Isiolo being Isiolo MELC E011 of 2022.
  - ii. That suit has been filed at Isiolo despite the fact the subject matter is situated in Kinna Area, falling within the Jurisdiction of Maua Magistrate Court.
  - iii. That Kinna Division is 84 Kilometres from Isiolo, while it is only 37 Kilometres from Kinna Division to Maua Town.



- iv. That it is trite law that a matter should be tried at the lowest competent (sic) to try it thus the lowest court with requisite pecuniary and territorial Jurisdiction.
  - v. That despite the applicant's objection the Honourable Court proceeded to fix the matter for hearing and also issued final orders at the interlocutory stage.
  - vi. That the suit is slated for Hearing on May 8, 2023.
  - vii. That this court is clothed with Jurisdiction to order the transfer of a matter filed in a court without Territorial Jurisdiction to the appropriate court.
  - viii. That it is in the best interest of Justice that this application be allowed as prayed.
3. On 5/6/2023, the respondents were granted 7 days to respond to the application and upon expiry of the said 7 days, the applicant was ordered to file and exchange written submissions. The respondents were to file and exchange their written submissions within 7 days after receipt of the applicant's submissions.
  4. On July 10, 2023 the respondents advocate, Mr Omari told the court he had filed and served his replying affidavit within the stipulated time. He however, told the court that the applicant had up to now not filed his submissions to enable the respondents to file theirs. He asked the court to dismiss the application for non-attendance to court, for non-prosecution and for disobedience of a court order to file submissions within the stipulated time.
  5. I agree with advocate Omari's submissions.
  6. In the circumstances, I issue the following orders;
    - a. The application dated April 20, 2023 is hereby dismissed.
    - b. Costs shall follow the event and are awarded to the respondents.

**DELIVERED IN OPEN COURT AT ISIOLO THIS 10<sup>TH</sup> DAY OF JULY, 2023 IN THE PRESENCE OF:**

Court Assistant: Balozi

Mr Omari for the Respondents.

**HON. JUSTICE P.M NJOROGE**

**JUDGE**

