



REPUBLIC OF KENYA



**Jowi v Oganga (Environment and Land Miscellaneous Application
E006 of 2023) [2023] KEELC 20576 (KLR) (4 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20576 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E006 OF 2023
GMA ONGONDO, J
OCTOBER 4, 2023**

BETWEEN

MAURICE SINDSI JOWI PLAINTIFF

AND

ZACHARIA ODERO OGANGA DEFENDANT

RULING

1. I have duly considered the entire application by way of a notice of motion dated 3rd October 2023 under certificate of urgency by the plaintiff/applicant through L K Obwanda and Company Advocates. The applicant is seeking the transfer of Homa Bay Chief Magistrate's court Environment and Land Case number E041 of 2023 to Ndhiwa Principal Magistrate's court for hearing and determination and costs of the application be provided for.
2. The application is based on the grounds set out on the face of it alongside an affidavit sworn by the applicant's counsel and a copy of pleadings marked as "OL-1" annexed to the affidavit.
3. Briefly, the applicant contends that the suit was filed in error. That the suit land, LR No. Homa Bay/ K/K/Karanding/539 is located within the jurisdiction of Ndhiwa Principal Magistrate's Court and that no document has been served in the suit.
4. I take into all the provisions of the law under which the application was commenced. More importantly, Articles 6 (3) and 48 of the Constitution of Kenya, 2010 provide for access to justice.
5. Additionally, this court has the mandate to make orders to meet the ends of justice pursuant to section 3 of the Environment and Land Court, 2015 (2011) and sections 1A, 1B, 3, 3A and 18 (1) (a) of the Civil Procedure Act Chapter 21 Laws of Kenya.
6. In the circumstances, I find the application meritorious.
7. Accordingly, this application is allowed in terms of transfer of the suit as per the 2nd prayer therein.



8. Costs of the application to abide the cause.
9. The suit be placed before the Principal Magistrate at Ndhiwa Law Courts on 18th October 2023 for directions.
10. It is so ordered.

G M A ONGONDO

JUDGE

ELC HOMA BAY

4TH OCTOBER 2023

