



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT HOMABAY**

**MISC. LAND APPLICATION NO. E002 OF 2022**

**(From Original Homa-Bay Land Case No. E 058 of 2021)**

**JAMES OTIENO OCHOLLA.....1<sup>ST</sup> RESPONDENT**

**-VERSUS-**

**KENNETH ODHIAMBO OBUYA.....1<sup>ST</sup> RESPONDENT**

**WARREN SURE SURE.....2<sup>ND</sup> RESPONDENT**

**RACHUONYO NORTH KOSELE**

**DISTRICT LAND REGISTRAR.....3<sup>RD</sup> RESPONDENT**

**RULING NO.2**

1. By a Notice of Motion dated 20<sup>th</sup> January 2022 and filed herein on 27<sup>th</sup> January 2022 (the application herein), the applicant, James Otieno Ocholla through Nancy Nyarige and Company Advocates is seeking the orders infra:

a) The Honourable court be pleased to order that the Land Case No. E058 of 2021 pending before the Chief Magistrate's Court at Homa-Bay be transferred to the Principal Magistrate's Court at Oyugis for hearing and final determination.

b) The costs of this application be costs in the cause in the main suit.

2. The application is anchored on the applicant's affidavit and grounds (a) to (f) set out on the same.

3. The 1<sup>st</sup> Respondent through Mr. B Ogari holding brief for Mr. R Ochieng of M/S. Robert Ochieng and Company Advocates, does not oppose the application.

4. I consider of the nature of the application. The same is not challenged at all.

5. In the spirit of **Article 48 of the Constitution of Kenya, 2010** and **Section 18(a) of the Civil Procedure Act Chapter 21 Laws of Kenya**, I find the application meritorious. Thus, I proceed to order and direct that;

a) Orders 1 and 2 sought with in the application dated 20<sup>th</sup> January 2022 and filed herein on 27<sup>th</sup> January 2022, as stated in paragraph 1(a) and (b) herein above, hereby granted.

b) Land case No. E058 of 2021 pending before the Chief Magistrate's Court at Homa-Bay to be mentioned before the Senior Principal Magistrate's Court at Oyugis on 6<sup>th</sup> April 2022 for directions.

c) The 2<sup>nd</sup> and 3<sup>rd</sup> Respondents be served accordingly.

6. It is so ordered.

**DELIVERED, DATED AND SIGNED AT HOMA BAY THIS 2ND MARCH 2022**

**G.M.A ONG'ONDO**

**JUDGE**

Present:

Nancy Nyarige, learned counsel for the Applicant.

Mr. B. Ogari holding brief for R. Ochieng, learned counsel for 1<sup>st</sup> Respondent.