



**Sinkeet v Mutunke (Miscellaneous Application E018 of 2022)
[2024] KEHC 452 (KLR) (18 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 452 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
MISCELLANEOUS APPLICATION E018 OF 2022
SN MUTUKU, J
JANUARY 18, 2024**

BETWEEN

DICKSON MAPI SINKEET PLAINTIFF

AND

NAISENYU PARGANA MUTUNKE DEFENDANT

RULING

1. This matter is pending a ruling on Chamber Summons dated 24th March 2022. It is a reference seeking to set aside the Taxing Officer's decision delivered on 9th March 2022 on the Party and Party Bill of Costs dated 24th August 2020, among other prayers.
2. The Chamber summons was filed on 25th March 2022 in the High Court Registry. It was placed before the Deputy Registrar on 14th September 2022 who proceeded to direct that the application be placed before the judge for directions. The matter was placed before me on the 16th January 2023 when Ms Wanjiku, learned counsel appeared for the Respondent and Mr. Kiptoo, learned counsel appeared for the Applicant. Both counsel were amenable to having the application canvassed by way of written submissions. This court so directed and allocated time to each counsel to file and serve submissions.
3. On 15th November 2023, both parties, through their counsel, informed the court that they had filed their submissions. I placed the matter for ruling on 18th January 2023.
4. At the time of preparing to write the ruling and after reading the entire file, it came to my attention that the Party and Party Bill of Costs, which is not attached, related to ELC Case No. 777 of 2017. It is obvious that this application was filed in the wrong court. This fact was not brought to the attention of the court by either of the counsel representing the parties.
5. It is trite that jurisdiction flows from the constitution and statute and that a court cannot arrogate itself jurisdiction. I am at a loss why the Applicant through his counsel filed this matter in the High Court



Registry. Due to inadvertent omission, this court did not notice this anomaly to raise both counsel to the issue and ask them to submit on the issue of jurisdiction.

6. For this reason, and to avoid a situation where this court grants orders that are invalid for lack of requisite jurisdiction, I have taken the matter into my own hands, suo moto, and declined to determine the application to avoid an injustice to the parties. In the interest of substantive justice and to enable the parties to enjoy their right to access to justice, I will and do hereby, direct that this matter be placed before the ELC for directions on the pending application.
7. The Deputy Registrar of this court is directed to place this matter before the Presiding Judge, ELC, Kajiado, as soon as practicable for directions. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 18TH JANUARY 2024.

S. N. MUTUKU

JUDGE

