



REPUBLIC OF KENYA



**Ng'ong'a & another v Okiya & 2 others (Miscellaneous Application  
E010 of 2024) [2024] KEHC 16851 (KLR) (14 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 16851 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
MISCELLANEOUS APPLICATION E010 OF 2024  
RE ABURILI, J  
FEBRUARY 14, 2024**

**BETWEEN**

**LUCAS NG'ONG'A ..... 1<sup>ST</sup> PLAINTIFF**

**SUSAN DEBORA NG'ONG'A ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**SAMUEL OCHIENG OKIYA ..... 1<sup>ST</sup> DEFENDANT**

**SAMSON ADONGO APONDI ..... 2<sup>ND</sup> DEFENDANT**

**LAND REGISTRAR, SIAYA SUB-COUNTY ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. From the application dated 13<sup>th</sup> December 2023, it was filed under certificate of urgency. However, as the urgency lapsed due to non-payment of court fees, I find no urgency involved. I decline to certify it as urgent.
2. On the substance of the application, I observe that the citation of the court is the Environment and Land Court at Kisumu.
3. In addition, the lower court file which is sought to be transferred to Siaya Law Courts is Kisumu CM ELC No. 15 of 2018 which was formerly ELC No. 226 of 2017.
4. Obviously, this Court as the High Court cannot, and has no jurisdiction to hear and determine any disputes or proceedings relating to Environment and Land or to transfer such proceedings from ELC lower court to any other court.
5. That function is clearly in the jurisdiction of the Environment and Land Court and not the High Court. It was erroneous for the High Court to map and admit proceedings which are clearly labelled and cited as ELC in the heading of the application.



6. Accordingly, I hereby decline to consider the merits of the application whether *ex parte* or *inter partes*.
7. I will not strike out the application because it is the High Court Registry that erroneously admitted the application from the Environment and Land Court.
8. I direct that the file be transferred to the Environment and Land Court, a Court of equal status with the High Court for consideration on merit.
9. This Ruling be typed and order extracted.
10. From this end of the High Court, the file is closed.
11. I so order.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 14<sup>TH</sup> DAY OF FEBRUARY, 2024**

**R. E. ABURILI**

**JUDGE**

