



**Juanco Investments Limited v Chege & 18 others (Civil Case
3 of 2023) [2024] KEHC 9686 (KLR) (18 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9686 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAJIADO
CIVIL CASE 3 OF 2023
SN MUTUKU, J
JULY 18, 2024**

BETWEEN

JUANCO INVESTMENTS LIMITED PLAINTIFF

AND

MICHAEL THOU CHEGE & 18 OTHERS DEFENDANT

RULING

1. This is an old matter. The record shows that the Further Amended Plaintiff relates to ownership of the suit property as defined in the Plaintiff being Kajiado/Kaputiei North/2263 and 8496. The Plaintiff is accusing the defendants of encroaching on its land and seeks among other orders, an eviction order.
2. The matter was filed in Nairobi as Civil Case No. 161 of 1999. It was filed in the High Court as a civil matter. The matter was not transferred to the ELC after that court was established by the *Environment and Land Court Act* which came into effect on 30th August 2011. For unexplained reason, the file remained in the Civil Division of the High Court at Milimani, Nairobi.
3. On 7th March 2023, counsel for the Plaintiff sought to have the file transferred to Kajiado. The reason advanced for seeking such transfer was because the suit property was situated in Kajiado. Counsel did not specifically seek to have the matter transferred to ELC Kajiado. The court (Hon. Ongeru, J) allowed that application for transfer to Kajiado for disposal. The order of the court stated specifically that the Deputy Registrar of the High Court in Nairobi was to forward the file to the Deputy Registrar Kajiado High Court. The file found its way to this court.
4. On 3rd July 2024, this court directed the counsel for the Plaintiff to address the court on the issue of jurisdiction. In her brief submissions, Ms Nini, holding brief for Mr. Maina for the Plaintiff, submitted that this matter was not transferred to the ELC when that court was created but remained in the High Court where it had been filed. That through an honest mistake the court ordered transfer to Kajiado



High Court instead of Kajiado ELC. She asked the court to order that this file be transferred to the ELC Kajiado for determination.

5. I have considered this matter. I have convinced myself that the matter relates to ownership of land and therefore jurisdiction lies with the ELC. Kajiado has an ELC and this matter ought to have been transferred to that Court. Unfortunately, when counsel sought orders to have the matter transferred to Kajiado, she did not specify to which court it was to be transferred. I believe that it is an inadvertent mistake on the part of the Court to have ordered transfer of this matter to the High Court in Kajiado instead of ELC.
6. In circumstances where parties or their advocates file a case relating to land where jurisdiction lies with the ELC in the High Court, this Court has, of late, been reluctant to transfer the matter to ELC for reasons that parties and advocates have had adequate time to understand the ELC Act to determine where matters like this one ought to be filed. That Act has been in existence since 2011 and legal practitioners are required to advise their clients appropriately.
7. However, the circumstances of the matter before me are different. It is an honest mistake to have failed to transfer this matter to ELC when that Court was established. For ends of justice to be met, it is prudent to have this matter transferred to the ELC Kajiado for hearing and determination.
8. Consequently, I hereby order that this file be transferred to the ELC Kajiado with immediate effect. The Deputy Registrar of this Court is directed to transmit this file to the Deputy Registrar of the ELC for onward placement before the Presiding Judge, ELC, on an appropriate date for directions.
9. Orders shall be issued accordingly.

DATED, SIGNED AND DELIVERED ON 18TH JULY 2024.

S. N. MUTUKU
JUDGE

