



**Asebe v Maketso (Miscellaneous Application E112 of 2024)  
[2024] KEHC 10746 (KLR) (17 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 10746 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT BUSIA  
MISCELLANEOUS APPLICATION E112 OF 2024  
WM MUSYOKA, J  
SEPTEMBER 17, 2024**

**BETWEEN**

**JOHNSTONE BAHATI ASEBE ..... APPLICANT**

**AND**

**ALEXANDER OPAKO MAKETSO ..... RESPONDENT**

**RULING**

1. The Motion, dated 16<sup>th</sup> September 2024, and the other papers filed with it, have been placed before me, and I have read and considered it.
2. I note that it is said to have arisen out of Busia CMC ELC Miscellaneous application on No. E004 of 2024.
3. The application seeks an order for deposit, in court, of court orders that allowed the respondent to carry out development on a certain parcel of land, and it is generally about sale of land, possession, survey and establishment of boundaries, and of orders to restrain access, possession, sale, transfer and charging of land.
4. The case is, no doubt, about land, and matters around what I have mentioned above, at paragraph 3, are governed by the Land Act, Cap 280, Laws of Kenya, and the Land Registration Act, Cap 300, Laws of Kenya.
5. The High Court no longer has jurisdiction over matters or disputes that relate to title to land, and use and occupation of land.
6. That jurisdiction was taken away by Article 162 (2) of the Constitution, which confers the said jurisdiction upon courts, with equal status with the High Court, that were to be established by Parliament, by dint of Article 162 (3) of the Constitution.



7. Article 165 (5) of the *Constitution* declares that the High Court has no jurisdiction over the matters that fall within the jurisdiction of the courts envisaged under Article 162 (2).
8. Parliament complied with Article 162 (3) of the *Constitution*, when it passed the *Environment and Land Court Act*, No. 9 of 2011, to establish the Environment and Land Court, to exercise the jurisdiction stated in Article 162 (2).
9. The court which operationalizes the provisions of the Land and the *Land Registration Act* is the Environment and Land Court, the empowered subordinate courts, according to sections 2 and 150 of the *Environment and Land Court Act*, and sections 2 and 101 of the *Land Registration Act*.
10. The issues raised in the instant Motion, and cause, relate to title to and use and occupation of land, for development of land, sale of land, land possession, survey works on land, establishment of boundaries, among others, which are matters which revolve around title, use and occupation of land, and are subject to the law stated in the *Land Act* and the *Land Registration Act*.
11. As I do not have jurisdiction, over the matters the subject of the Motion before me, for the reasons that should emerge from the above discussion, I shall not give any directions, regarding the disposal of the instant Motion, instead I shall down my tools.
12. I have handled this matter on this 17<sup>th</sup> day of September 2024.

**WM MUSYOKA**

**JUDGE**

