



**JOO v SMT (Miscellaneous Case E092 of 2022)
[2023] KEHC 851 (KLR) (9 February 2023) (Ruling)**

Neutral citation: [2023] KEHC 851 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
MISCELLANEOUS CASE E092 OF 2022
REA OUGO, J
FEBRUARY 9, 2023**

BETWEEN

JOO APPLICANT

AND

SMT RESPONDENT

RULING

1. The applicant seeks to have Bungoma Children Case No 31 of 2022 transferred to Nairobi Magistrate’s Court and also to take cognizance that Nairobi Children’s Case No E1674 of 2022 are between the same parties.
2. The application is supported by grounds on the face of the application and a supporting affidavit of the applicant. The application was opposed.
3. I have considered the oral submissions. There is no dispute that the 2 cases exist in the different courts and that the parties are the same. The issue in both cases revolve around the minors the children of the applicant and respondent. I have not had the benefit of reading the pleadings in the 2 cases but from the oral submissions the case in Nairobi is one of custody of the minors and the one in Bungoma. I do note that respondent chose not to respond to the application but her counsel raised the issue of jurisdiction.
4. The issues of the residence of the parties in matters like this one can go either way depending on the evidence adduced. In my view for good order and considering the best interest of the minors and for expeditious disposal of the matter of custody of the minors the matter should be dealt with in the Nairobi Court. The respondent counsel has not disputed the fact that they have had to respond to the issues raised in the said court. I therefore order that Bungoma Magistrate Court Children Case No 31 of 2022 be transferred to Nairobi Magistrate’s Children’ Court on or before the February 13, 2023. No order as to costs.

R.E. OUGO



JUDGE

9/2/2023

Before: R.E Ougo J

Wilkister C/A

Mr. Asembo for Applicant

Miss Wakoli for Respondent

