



**Kanja & 5 others v M'Kanake (Miscellaneous Civil Application  
E096 of 2023) [2023] KEHC 23389 (KLR) (5 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23389 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MERU  
MISCELLANEOUS CIVIL APPLICATION E096 OF 2023**

**TW CHERERE, J**

**OCTOBER 5, 2023**

**BETWEEN**

**REGINA KANJA & 5 OTHERS ..... APPLICANT**

**AND**

**JOYCE NCORORO M'KANAKE ..... RESPONDENT**

**RULING**

1. This matter arises out of Maua CMCC No 184 of 2014 wherein the Respondent's claim was for:
  1. Eviction order of Applicants from LR No Kiengu/Kanjoo/2785
  2. A permanent injunction restraining the Applicants from interfering with Respondent's from entering or in any way interfering with Respondent's use and occupation of LR No Kiengu/Kanjoo/2785
2. By a judgment dated April 20, 2023, the court found the Respondent's claim proved and directed that Applicants move from LR No Kiengu/Kanjoo/2785 within 60 days failure to which they would be removed forcefully.
3. By application dated August 30, 2023, Applicants seek leave to appeal the ruling out of time and for stay of the judgment pending the hearing and determination of the intended appeal
4. Respondent opposed the application on the grounds among others that this court has no jurisdiction to entertain this matter.
5. The jurisdiction to hear and determine disputes relating to the environment, use and occupation of and title to land is vested on the Environment and Land Court by Article 162(2)(b) of the *Constitution of Kenya, 2010* and Section 13 of the *Environment and Land Court Act* and on the Magistrates Court by Section 9 of the Magistrates Courts Act.



6. By placing a dispute relating to occupation and use of land before this court, Applicants are asking the court to engage in matters that are beyond its jurisdiction. I echo Nyarangi JA in the case of *The Owners of the Motor Vessel Lilian 'S' v Caltex Kenya Limited* (1989) KLR 1 that

“..... jurisdiction is everything without it; a court has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law downs its tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction”.

7. In the end, this matter is transferred to the Meru Environment and Land Court for directions and/or further orders.

**DATED IN MERU THIS 05<sup>TH</sup> DAY OF OCTOBER 2023.**

**WAMAE. T.W. CHERERE**

**JUDGE**

**Appearances**

Court Assistants - Kinoti/Munene

For Applicants - Mr. Mageria for Kiautha Arithi & Co Advocates

For Respondent - Mr. Gikonyo for Gikonyo & Ngugi Advocates

