



Ironco v Ndethio (Sued as the he Administrator of the Estate of Ndethu M’Kauga - Deceased) (Environment and Land Miscellaneous Application E005 of 2025) [2025] KEELC 4884 (KLR) (30 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4884 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E005 OF 2025**

**BM EBOSO, J
JUNE 30, 2025**

BETWEEN

SALESIO GITEMBA IRONCO APPLICANT

AND

FRANCIS MBII NDETHIO (SUED AS THE ADMINISTRATOR OF THE ESTATE OF NDETHU M’KAUGA - DECEASED) RESPONDENT

RULING

1. Through the notice of motion dated 10/6/2025, the applicant invited this court to exercise jurisdiction under Section 18 of the *Civil Procedure Act* and transfer this suit from Chuka Chief Magistrate Court to Chuka Environment and Land Court. The applicant contends that the Chief Magistrate Court does not have jurisdiction to adjudicate adverse possession claims.
2. The court has considered the plea. The claim in the lower court was lodged by the applicant. It emerges that the claim was lodged in a court that did not have jurisdiction. The prevailing jurisprudence is that, where a suit is lodged in a court that does not have jurisdiction at all, the suit is a nullity and there is no valid suit to transfer to a competent court. That regrettably is the fate of Chuka CMC E&L Case No. E018 of 2025. The recourse available to the applicant is to withdraw the incompetent suit and file a competent suit in the Environment and Land Court.
3. For the above reason, the notice of motion dated 10/6/2025 is rejected and dismissed. Noting that the applicant’s predicament is partly attributable to the recently overruled jurisprudence of a third tier court, there will be no orders as to costs.

DATED, SIGNED AND DELIVERED VIRTUALLY THIS 30TH DAY OF JUNE 2025

B M EBOSO [MR]

JUDGE



In the presence of:-

Mr. Owade for the Applicant

Mr. Tupet - Court Assistant

