



**Opiyo v Nyakwaka & 3 others (Miscellaneous Civil Application
E357 of 2024) [2024] KEHC 13808 (KLR) (7 November 2024) (Ruling)**

Neutral citation: [2024] KEHC 13808 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION E357 OF 2024
RE ABURILI, J
NOVEMBER 7, 2024**

BETWEEN

PETER OCHIENG OPIYO APPLICANT

AND

JOEL OBONYO NYAKWAKA 1ST RESPONDENT

CHARLES ONDU DEYA 2ND RESPONDENT

ELIZABETH JULIA NDUNGE 3RD RESPONDENT

ATTORNEY GENERAL 4TH RESPONDENT

RULING

1. The application dated 4th November 2024 filed under certificate of urgency is not certified urgent.
2. On the substance thereof, from the letter of 7th October 2024 addressed to Maseno Law Courts, it is clear that the matter giving rise to this intended appeal is an Environment and Land Court matter.
3. This court is aware of the Constitutional bar at Article 165 (5) (b) which expressly bars the court from hearing and determining disputes relating to environment and land.
4. I am aware that Magistrate's courts are conferred with jurisdiction to hear and determine disputes relating to Land and Environment. It follows that any party aggrieved by the decision of the Magistrate's court can only file an appeal before the superior court established under Article 162 (2) (b) of the *Constitution*. That court is Environment and Land Court, which has jurisdiction to hear such disputes both as a trial court and as an appellate court as stipulated in Section 13(1) of the *Environment and Land Court Act*.
5. In the end, as this court's jurisdiction does not include the hearing and determining disputes relating to Land and Environment, and as jurisdiction is everything, without which, a court of law acts in vain.



For want of jurisdiction, this Court cannot attempt to hear and determine this application seeking leave to appeal out of time and or stay of execution of decree in Maseno SPM ELC No. 57 of 2018.

6. Accordingly, the application dated 4th November 2024 is struck out for want of jurisdiction.
7. I make no orders as to costs.
8. The Registry to notify the applicant's counsel forthwith.
9. This file is closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 7TH DAY OF NOVEMBER, 2024.

R. E. ABURILI

JUDGE

