

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

MISC CIVIL CASE NO. 58 OF 2018

KAPSOEN ESTATES LTD.....1ST APPELLANT

AUGUSTINE K. ARAP CHERUIYOT.....2ND APPELLANT

VERSUS

DAVID KURGAT.....PLAINITFF/RESPONDENT

R U L I N G

1. The court has perused the Notice of Motion herein dated 26/11/2018. The same relate to the sale of land within Kitale Municipality. It seems the Respondent has obtained a decree against the applicant.
2. On the other hand the applicant has indicated that there is a pending suit namely Kitale Environment and Land Case No. 156 of 2015 Ethic & Anti Corruption Commission Versus Kapsoen Estates Ltd and Another. The same is yet to be determined.
3. Without going into the merits of application or otherwise it is my considered opinion that the proper court to adjudicate over this matter shall be the Land and Environment Court which in any event is seized with jurisdiction.
4. The question of the merits of the appeal, the deposit of the sum awarded or whether to provide alternative security as prayed by the applicant can be canvassed in the said court.
5. In the premises let this matter be and is hereby transferred to the Environment and Land Court here at Kitale for determination.

Delivered, signed and dated at Kitale this 3rd day of April 2019.

H.K. CHEMITEI

JUDGE

03/4/19

In the presence of:

Mr Wanyam holding brief for Samba for Respondent

No appearance for the Applicant

Court Assistant – Kirong

Ruling read in open court.