



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**MISC. CIVIL APPLN. NO. 14 OF 2014**

**JOHN MWENDA alias JOHN MURIKI.....APPLICANT**

**-VERSUS-**

**1. JOSEPH MWENDA**

**2. THE DISTRICT LAND ADJUDICATION AND**

**SETTLEMENT OFFICER MERU NORTH DISTRICT...RESPONDENT**

**RULING**

1. The application under consideration in this ruling is the Notice of Motion dated 20/03/2014 and filed on 26/03/2014 which seeks to transfer **Maua CMCC No. 225 of 2010** (hereinafter referred to as '**the suit**') to the Chief Magistrate's Court at Meru for hearing and determination.

2. The application is supported by the Affidavit of the Applicant sworn on 14/03/2014. The application is opposed by the first Respondent through his Replying Affidavit sworn on 22/07/2014 and filed on 28/07/2014.

3. The main ground for the application is that the Applicant is apprehensive that he will not get justice if the suit is tried at Maua Law Court for reason that the first Respondent, who is his brother, informed him that he will ensure that the suit is determined in the Applicant's absence. The first Respondent denied the assertions and contended that he has no control over court proceedings and as such the fear is far-fetched and unfounded as it's based on unsubstantiated allegations.

4. This Court has carefully considered the application and is not satisfied that it is merited. I say so because the same is based on heresay as the Applicant has failed to demonstrate how the first Respondent has control over the courts in Maua Law Court. Suppose the suit is transferred to Meru Law Court as sought and thereafter the Applicant 'is likewise informed', will he seek to transfer the same again to another court? And for how long? The questions are unending.

5. As I come to the end of this ruling, it is my hope that the Applicant shall take deliberate steps to prosecute the suit which has been in court since 2010.

6. The upshot is that the Notice of Motion dated 20/03/2014 is hereby dismissed with costs.

**DELIVERED, DATED and SIGNED at MERU this 21<sup>st</sup> day of July 2017.**

**A. C. MRIMA**

**JUDGE**