



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CIVIL APPEAL NO. 323'A' OF 2011**

**SALOME MUMBI KARUMBA .....APPELLANT**

**VERSUS**

**STEPHEN NDICHU NJIHIA .....RESPONDENT**

**RULING ON JURISDICTION OF THE HIGH COURT**

This appeal arises from the judgment and decree in Thika Resident Magistrate 168 of 1991. The plaintiff's claim against the defendant was for:-

(a) an order restraining the defendant from further trespassing on plot No. Ruiru/Ruiru East/Block 2 and 327; and

(b) Mesne profits and costs of the suit.

The above being the case, this court finds that it has no jurisdiction to hear and determine disputes relating to ownership, occupation or title to land. The jurisdiction thereof is vested in the Environment and Land Court as established under Section 4 of the Environment and Land Court Act 2011 as contemplated in Article 162(2) (b) of the Constitution.

In addition, Article 165(5) (b) of the Constitution expressly ousts the jurisdiction of the High Court from hearing and determining disputes preserved for the courts contemplated in Article 162(2) of the Constitution.

Albeit this appeal was filed in 2011 during the transitional period as the Environment and Land Court had not been fully operationalised, nonetheless, the Environment and Land Court is now fully operational with competent judges to hear and determine the disputes as contemplated in Article 162(2) (b) of the Constitution and Section 13(1) and (7) of the Environment and Land Court Act, 2011.

For those reasons and as jurisdiction is everything, without which, this court can do no more than down its tools and refer this appeal to the Environment and Land Court for further directions on its disposal. Mention on 9<sup>th</sup> May 2016 before the presiding Judge of Environment and Land Court Nairobi, the respondent to serve the appellant with mention date.

**R.E. ABURILI**

**JUDGE**

**25/4/2016**