



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & ADMIRALTY DIVISION

CIVIL CASE NO. 1026 OF 2010

SAMWEL MOTARI MOGENI ::::::::::::::::::::::::::::::: APPLICANT

VERSUS

GEORGE KIRIAMA ::::::::::::::::::::::::::::::: RESPONDENT

R U L I N G

1. The application before the court is a **Notice of Motion** dated **22ND September 2010**. It seeks the following orders:-
 1. *That this Honourable court be pleased to order the transfer of the suit and file of NBI Civil Case No. 5464/09 to the Chief Magistrate's Court at Kisii to be tried and disposed of this application be in the cause.*
 2. *That the costs of this application be in the cause.*
2. The application is premised on the following grounds:-
 - a. *That the Plaintiff's Complaint was erroneously and inadvertently filed at the Chief Magistrate's Court (Milimani) at Nairobi on the 19th August 2009.*
 - b. *That the cause of action arose in Kisii and as such the Chief Magistrate's court at Nairobi has no jurisdiction to dispose of this matter.*
 - c. *That the Defendant resides in Kisii.*
 - d. *That the Defendant will not suffer any prejudice should the Orders sought be granted.*
3. The application is supported by affidavit of **MELANIE OCHIENG** dated **22ND September 2010**. The application is not opposed. The Application together with a Hearing Notice was served upon the Respondents/Advocates on 4th April 2014. Affidavit of Service to the effect was filed in court on 25th April 2014. Proof of service evident, I allowed the Applicant to proceed *ex-parte* on 27th May 2014.
4. I have carefully considered the application, and the grounds and affidavit in support thereof. I believe the application is merited on the grounds stated.
5. The application is allowed as prayed with costs in the cause.

DATED, READ AND DELIVERED AT NAIROBI

THIS 6TH DAY OF JUNE 2014

E. K. O. OGOLA

JUDGE

PRESENT:

M/s Gathoni Kariuki holding brief for Sentei for Applicant

No appearance for Respondent

Teresia – Court Clerk