



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL MISC. APPLICATION NO. 8 OF 2014

MOSES OTIENO NGAU *Alias* RUKHI MOSES

FLORENCE ACHOLA OTIENO.....APPLICANTS

VERSUS

GEORGE OPIYO OILE.....RESPONDENT

RULING

Before court is the notice of motion dated 8th April, 2014 seeking *inter alia* the following orders

“1. The Honourable court be pleased to transfer Winam Children’s Case No. 3 of 2014 to Mombasa Chief Magistrate’s Court.

2. The Children’s Court sitting at Mombasa be directed to hear and determine the above cited case in accordance with the law.”

The application for the transfer of this case from Winam to Mombasa was opposed. The application was disposed of by way of written submissions.

I have read and have carefully considered the submissions on record. The applicants have annexed documents i.e. licences to prove that they do carry on business in Mombasa where they ordinarily reside. The Civil Procedure Rules do provide that a suit may be instituted either where

- i. The cause of action arose.
- ii. The defendants ordinarily reside or
- iii. The defendants carry on business.

The defendants (applicants) herein do ordinarily reside and carry on business in Mombasa. The cause of action is said to have arisen in Miranga Village, Ndhiwa District which is within the local jurisdictional limits of Homa Bay Courts. Why then was the suit instituted in Winam which is in Kisumu District. I am satisfied that this present application has merit and the same is hereby allowed in terms of prayers (1) and (2). Costs in the cause.

Dated and delivered in Mombasa this 16th day of July, 2014.

M. ODERO

JUDGE

In the presence of:

Mr. Odero for Applicants

Ms. Mwatu h/b Mr. Mbango for Respondent

Court Clerk Mutisya