

REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
HCCC NO. 19 OF 2009

ANDREW KABAILAPLAINTIFF

VERSUS

CAROL BAHATI KAHINDIDEFENDANT

RULING

1. As framed, the plaintiff's plaint does not seem to disclose any cause of action known to Kenyan law. When the counsel for the plaintiff was asked to submit on the issue he stated that the case is based on "unjust enrichment" while admitting that this matter really emanates from a matrimonial dispute between the parties. Mr. Shujaa for the Defendant correctly argued that there is a specific procedure for dealing with matrimonial disputes or distribution of property acquired during a marriage.
2. In addition, he stated that no cause of action is disclosed in the plaint. To this end he referred to the case of **J. K. vs A.K. HCCC NO. 1433 of 1999** whose facts are similar to the present case. In that case, the plaint was struck out for similar reasons, among others. I am not satisfied that the plaintiff has demonstrated any salvageable cause of action known to Kenyan law in respect of this suit and I order the plaint struck out with costs.

Delivered and signed at Malindi this **3rd** day of **April, 2013** in the presence of Mr. Shujaa for defendant, plaintiff absent.

Court clerk - Evans

C. W. Meoli

JUDGE

3th April, 2013