



**Lelei v Michuki (Sued as the legal representative of the Estate of the Late Dr Michuki Njuguna - Deceased) (Environment and Planning Miscellaneous Application E002 of 2025) [2025] KEELC 7079 (KLR) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7079 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT AND PLANNING MISCELLANEOUS APPLICATION E002 OF 2025  
GMA ONGONDO, J  
OCTOBER 16, 2025**

**BETWEEN**

**RICHARD KIPTOO LELEI ..... APPLICANT**

**AND**

**LUCY WAMBUI MICHUKI (SUED AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF THE LATE DR MICHUKI NJUGUNA - DECEASED) ..... RESPONDENT**

**RULING**

1. By the Notice of motion dated 2<sup>nd</sup> October 2025, the applicant, Richard Kiptoo Lelei through Cheruiyot Melly and Associates Advocates, is seeking the orders infra;
  - a) That this Honourable Court be pleased to transfer to itself the lower Court file being Chief Magistrate’s Court Kapsabet Land Case No. E053 of 2022 (OS) between Richard Kiptoo Lelei and Lucy Wambui Michuki (Sued as the legal representative of the Estate of the late Dr. Michuki Njuguna) for trial and final disposal on merits.
  - b) That, consequent to grant of prayer (3) above this Court be pleased to grant the Applicant leave to amend his pleadings and file further documents in compliance with Order 11 of the Civil Procedure Rules and a corresponding leave to the Respondent if she so desires.
  - c) That the costs of this application be provided for,
  - d) That such further and/or other orders be made as the Court may deem fit and expedient.
2. The basis of the application is the 18-paragraphed affidavit of the applicant and the accompanying documents which include; a copy of originating summons and a copy of certificate of confirmation of grant as well as fifteen grounds, inter alia;



- a) That, the instituted this suit on the 17<sup>th</sup> day of February 2022 vide Kapsabet Chief Magistrate's Court ELC No. E053 of 2022 (OS) by way of adverse possession.
  - b) That, the Magistrate's Court lacks jurisdiction to heard and determine suits founded on adverse possession which jurisdiction is exclusively reserved for the Environment and Land Court.
  - c) that on the 11<sup>th</sup> day of October 2024 the Court of Appeal sitting in Nairobi Vide Civil Appeal No. E141 of 2022 held conclusively that the Magistrate's Courts have not jurisdiction to handle or entertain claims of adverse possession.
  - d) That, the suit land Nandi/Chemuswa/316 is situated within the jurisdiction of the Kapsabet Environment and Land Court.
  - e) That, the Applicant has brought this instance application timely, expeditiously and in the interest of justice and fairness. The Court below has not rendered itself fully on the above suit before it.
3. The respondent was duly served with the application as demonstrated by the affidavit of service sworn on 13<sup>th</sup> October 2025 by Mr. Victor Kiprono learned counsel for the applicant. However, she opted not to respond to the application; see *Ogada-vs-Mollin (2009) KECA 409 (KLR)*.
  4. In that regard, is the application meritorious?
  5. It is the position of the applicant's counsel that the application is unopposed and merited. That it be allowed accordingly.
  6. Clearly, the application duly served, is not opposed.
  7. I have taken into consideration the application in entirety and noted section 9 of the *Magistrates' Courts Act* 2015, section 26 (4) of the *Environment and Land Court Act* 2015 (2011) and sections 17 and 18 of the *Civil Procedure Act* Chapter 21 Laws of Kenya pertaining to the jurisdiction magistrates' courts and this court over the instant dispute.
  8. Further, I subscribe to the Court of Appeal decision in *Sugawara-vs-Kiruti* (Sued in her capacity as the administratrix of the Estate of Mutarakwa Kiruti Lepaso alias Mutarakwa Kiruti Lepaso alias Mutaragwa Kiroti Leposo and in her own Capacity & 3 others (2024) eKLR on jurisdiction over adverse possession claims as well as the Supreme Court of Kenya decision in the case of *Republic-vs-Karisa Chengo & 2 others (2017) eKLR* as regards jurisdiction. So, I find the application steadfast and meritorious.
  9. Thus, the application dated 2<sup>nd</sup> October 2025 is hereby allowed in terms of Orders 3 and 4 sought therein as stated in paragraph 1 (a) and (b) hereinabove with costs in the cause.
  10. It is so ordered.

**DATED AND DELIVERED AT KAPSABET THIS 16<sup>TH</sup> DAY OF OCTOBER 2025.**

**HON. G M A ONGONDO**

**JUDGE**

In the presence of;-

Mr. Victor Kiprono learned counsel for the Applicant

Mr. Walter Kipkorir, Court Assistant

