



**Nyatome v Nyatome t/a Big and Tall Men's Store (Miscellaneous Application E352 of 2025)
[2025] KEHC 14800 (KLR) (Commercial and Tax) (16 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14800 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E352 OF 2025**

F GIKONYO, J

OCTOBER 16, 2025

BETWEEN

EDGAR NYATOME PLAINTIFF

AND

**LORNA BONARERI NYATOME T/A BIG AND TALL MEN'S
STORE RESPONDENT**

RULING

1. The plaintiff/applicant in the notice of motion dated 1st April 2025 expressed to be brought under section 18 (1) (b) of the Civil Procedure Rules, is seeking, inter alia, the transfer of Milimani CMCC No. E12109 of 2021, Edgar Nyatome v Lorna Bonareri Nyatome T/A Big and Tall Men's Store, to this court for trial and final determination.
2. The application is premised on the grounds set out in its body and the supporting affidavit sworn on even date.
3. The grounds are that the plaintiff filed the subject suit before the Chief Magistrate's Court at Milimani Commercial Courts on 21st January 2022. The damages sought by the plaintiff in the subject suit were within the pecuniary jurisdiction of that court at the time of filing the suit. However, due to a subsequent amendment of the plaint and following upward trajectory of the United States Dollar, the value of the claim has been enhanced, exceeding the pecuniary jurisdiction of the Chief Magistrate's Court.



Analysis and Determination

4. Flowing from the above, the issue before the court is whether Milimani CMCC No. E12109 of 2021, Edgar Nyatome v Lorna Bonareri Nyatome T/A Big and Tall Men's Store should be transferred to this court for hearing and final determination.
5. Under Article 165 (6) of *the Constitution* read with Section 18 (1) (b) of the *Civil Procedure Act*, the court may withdraw any suit or other proceeding pending in any court subordinate to it, and thereafter —(i)try or dispose of the same;”
6. The instant application seeks transfer of the suit based on pecuniary jurisdiction.
7. The pecuniary jurisdiction of the Chief Magistrate's Court is spelled out under Section 7 of the Magistrates Court Act No. 26 of 2015 as follows: -
 - “(1) A magistrate's court shall have and exercise such jurisdiction and powers in proceedings of a civil nature in which the value of the subject matter does not exceed
 - a) twenty million shillings, where the court is presided over by a Chief Magistrate;
 - b) fifteen million shillings, where the court is presided over by a Senior Principal Magistrate;
 - c) ten million shillings, where the court is presided over by a Principal Magistrate;
 - d) seven million shillings, where the court is presided over by a Senior Resident Magistrate; or
 - e) five million shillings, where the court is presided over by a Resident Magistrate.”
8. Through the plaint, subsequently amended on 27th November 2023 and filed on 2nd February 2024, the plaintiff/ applicant claims USD 142,618 as the principal sum spent on purchase of business, stock, transport and logistics. He also claims USD 42,785 being interest and or profit he would have earned between May 2019 and October 2021 or its equivalent in Kenya Shillings at the prevailing market rate.
9. The total amount claimed is USD 185,403. The equivalent of the amount claimed in Kenya Shillings at the prevailing market rate of Kshs. 129.2331 is KES 23,962,387.6.
10. From the foregoing, I am satisfied that in the circumstances of this case, it is just and fair for the matter to be transferred to this court for trial and final determination.

Disposal

11. The upshot is that the application dated 1st April 2025 is allowed as prayed. No orders as to costs.

DATED, SIGNED AND DELIVERED THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 16TH DAY OF OCTOBER, 2025.

F. GIKONYO M



JUDGE

In the presence of:

Ndolo for Ms. Kisu for Plaintiff

Kiiru Nguono for Respondent/Defendant

CA Kinyua

