



**Khasi & another v Keino (Environment and Land Miscellaneous Case E035 of 2025) [2025] KEELC 8338 (KLR) (26 November 2025) (Ruling)**

Neutral citation: [2025] KEELC 8338 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET  
ENVIRONMENT AND LAND MISCELLANEOUS CASE E035 OF 2025  
GMA ONGONDO, J  
NOVEMBER 26, 2025**

**BETWEEN**

**PAUL NDEYA KHASI ..... 1<sup>ST</sup> APPLICANT**

**SOLOMON MWASHI ..... 2<sup>ND</sup> APPLICANT**

**AND**

**KIPTENAI ARAP KEINO ..... RESPONDENT**

**RULING**

1. By a Notice of Motion dated 18<sup>th</sup> November 2025, the applicants through Cheruiyot Melly and Associates Advocates are seeking the orders thus;
  - (a) That the Honourable Court be pleased to transfer to itself the lower Court file being Kapsabet Chief Magistrates Court E&L Case No. 92 of 2021 (OS) between Paul Ndeya Khasi & Solomon Mwashikiptenai & Arap Keino 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 corresponding leave to the Respondent if so desired.
  - (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 application is based on the supporting affidavit of nineteen paragraphs sworn by the 1<sup>st</sup> applicant and the twenty grounds, inter alia; That, the suit mentioned in paragraph 1 (a) hereinabove, pertains to adverse possession. That the magistrate's court lacks jurisdiction to hear and determine suits founded upon adverse possession which jurisdiction is exclusively reserved for the Environment and Land Court. 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 no jurisdiction to handle or entertain claims of adverse possession.
3. It is noteworthy that the Respondent had been served by way of substituted service as disclosed in paragraph 6 of the affidavit in support of the application. Clearly, there is no response to the application.
  4. In that regard, Mr. Kiprono Learned Counsel for the Applicants urged the Court to allow the application in the interest of justice.
  5. Having considered the application in entirety, is the same merited?
  6. The Applicants claim that the Magistrate's Court is not seized of jurisdiction over the suit pending before the same Court. In the case of *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, the Court of Appeal was emphatic that the Magistrates' Courts lack jurisdiction over adverse possession claims.
  7. It is trite law that lack of jurisdiction renders a court's decision void; see *Republic-vs-Karisa Chengo & 2 others* (2017) eKLR.
  8. In the obtaining circumstances, I am guided by Section 3 of the *Environment and Land Court Act* 2015 (2011) as well as sections 3, 3A and 18 of the *Civil Procedure Act* Chapter 21 Laws of Kenya and more fundamentally, Articles 50 (1) and 159 (2) (b) of *the Constitution* of Kenya 2010 on the ends of justice. So, I find the application firm, cogent and meritorious.
  9. A fortiori, the instant application dated 18<sup>th</sup> November 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 26<sup>TH</sup> DAY OF NOVEMBER, 2025.**

**HON. G. M. A. ONGONDO**

**JUDGE.**

In the presence of:-

Mr. V.Kiprono learned counsel for the applicants

Mr. Walter Kipkorir, Court Assistant

