

REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
MISC. APPLICATION NO. E377 OF 2025

REUBEN KIPTOO CHUMBA PLAINTIFF/APPLICANT .

=VERSUS=

FAITH CHEMUTAI MAINA DEFENDANT/RESPONDENT

Coram Before: Hon. Justice R. Nyakundi
M/S CSB Advocates LLP
M/S CJ Ndombi & Co. Advocates

RULING

1. Before this Court is a notice of motion dated 10th day of November 2025 brought under under Section 34, 12 Civil Procedure Act, Order 47 rule 6(2) of the Civil Procedure Rules and all other enabling provisions of the law seeking for the following orders:
 - (a) This Honourable Court be pleased to transfer Land Case No 161 of 2025 currently before the Eldoret Chief Magistrate's Court to the Moiben Magistrate's Court for hearing final determination.
 - (b) That costs of this application be in the cause.
2. Which application is based on the following grounds:
 - (a) That the applicant is the plaintiff in Land Case No. E 161 OF 2025.
 - (b) That the suit property LR 4243/2 Muratina farm which is the subject matter of this suit is located within the jurisdiction of Moiben Magistrates Court.
 - (c) That the contract in question was entered into, and was to be performed within the jurisdiction of the Chief Magistrate's Court at Moiben.
 - (d) That it is in the interest of justice, convenience, and judicial economy that the suit be heard and dcccrnind by thc court within whose local limits the cause of action arose.
 - (e) That no prejudice shall be occasioned to the Respondent if the orders sought are granted.

- (f) That this Honourable Court has the power to order such transfer .
3. The application is supported by an affidavit sworn by Reuben Kiptoo Chumba who deponed as follows:
- (a) That I am a male adult of sound mind and the plaintiff herein hence competent to swear this affidavit.
- (b) That I filed Land Case No. E161 of 2025 before the Chief Magistrate's Court at Eldoret seeking reliefs arising out of a breach of contract between myself and the Respondent.
- (c) That the contract in question was entered into, and was to be performed within the jurisdiction of the Chief Magistrate's Court at Moiben.
- (d) That the subject matter of the contract namely LR4242/2 Muratina Farm is also situated within the jurisdiction of Moiben Magistrate's Court.
- (e) That for purposes of convenience, local jurisdiction, and efficient administration of justice, it is just and fair that the suit be transferred to the Chief Magistrates Court at Moiben.
- (f) That no prejudice will be suffered by the Respondent if this application is allowed.
- (g) That it is in the interest of justice that this Honourable Court exercises its powers under Section of the Civil Procedure Act to order the transfer as prayed.

Decision

4. The High Court of Kenya has jurisdiction and powers donated by Section 17 and 18 of the Civil Procedure Act to transfer suits registered in one Magistrates Court to another for hearing and determination. See the principles in the following authorities:

Equity Bank Limited vs Bruce Mutie Mutuku t/a Diani Tour

Travel [2016] eKLR, Owners of the Motor Vessel "Lillian S" v

Caltex Oil (Kenya) Ltd (1989) eKLR, Muito v Mwangi & 2 Others [2024] eKLR and Ochieng v Mwangi [2025] eKLR.

5. The provisions of Section 18 of the Civil Procedure Act provides as follows inter alia; *that the High Court may at any stage withdraw any suit or other proceeding pending in any court subordinate to it, and thereafter:*

(a).....; or

(b)*Transfer the same for trial or disposal to any court subordinate to it and competent to try or dispose of the same.*

6. The dicta in **Rapid Kate Services Limited vs Freight forwarders Kenya Limited & 2 Others [2005] 1 KLR 292** is of relevance to this application as herein stated as follows:

“The Court’s power to transfer proceedings from one Court to another is a useful corrective measure to ensure that proceedings wherever began or whatever forum the plaintiff has initially chosen should be dealt with or heard or determined by the Court most appropriate or suitable for those proceedings. When making or refusing an order for transfer the Court will have regard to the nature and character of the proceedings the nature of the relief or remedy sought, the interests of the litigants and the more convenient administration of justice. It is a discretionary power of the Court under section 3A of the Civil Procedure Act...”

7. In the circumstances of this case having found that the court has jurisdiction I proceed to exercise jurisdiction to remove Miscellaneous Application No. E377 of 2025 from the Eldoret Registry and have it transferred to Moiben Law Courts for hearing and determination. By this order of transfer, the parties are notified to appear before the Principal Magistrate’s Court at Moiben on 24th December 2025 for pretrial conference. The import of this is that the Deputy Registrar of the High Court is commanded to dispatch this case file to the Court Administrator at Moiben Law Courts to

have it placed before the in-charge of the Station to action appropriately.

**DATED, SIGNED AND DELIVERED VIA CTS AT ELDORET THIS 18TH
DAY OF DECEMBER 2025**

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R. NYAKUNDI
JUDGE