



Ndoo & another (Suing as Legal Representatives and Administrators of the Estate of Johnson Kyai Ndoo - Deceased) v Kilonzo & 13 others (Environment and Land Case 23 of 2019) [2026] KEELC 484 (KLR) (5 February 2026) (Ruling)

Neutral citation: [2026] KEELC 484 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MAKUENI
ENVIRONMENT AND LAND CASE 23 OF 2019
EO OBAGA, J
FEBRUARY 5, 2026

BETWEEN

HELLEN MBULA NDOO 1ST PLAINTIFF
SAMSON KANYANYA KYAI 2ND PLAINTIFF
SUING AS LEGAL REPRESENTATIVES AND ADMINISTRATORS OF THE
ESTATE OF JOHNSON KYAI NDOO - DECEASED

AND

BERNARD WAMBUA KILONZO 1ST DEFENDANT
HARRISON MUEMA KYOVE 2ND DEFENDANT
MARY NDUKU KATUNDA 3RD DEFENDANT
LEONARD MUSYOKA 4TH DEFENDANT
TABITHA VAVU 5TH DEFENDANT
DR. KYALO MASILA YENG'E 6TH DEFENDANT
NBIU MBEVI 7TH DEFENDANT
LAWRENCE MUSIMBA 8TH DEFENDANT
MUSYOKI KOVO 9TH DEFENDANT
ANN MUTINDA 10TH DEFENDANT
MBALU MULEI 11TH DEFENDANT
MUSYOKA LUNGUI 12TH DEFENDANT
AIC MWEMBENI 13TH DEFENDANT
THE COUNTY GOVERNMENT OF MAKUENI 14TH DEFENDANT



RULING

1. This is a ruling in respect of a notice of motion dated 4th September, 2025 in which the 2nd Defendant/Applicant seeks the withdrawal of this suit from this court and transfer the same to Makindu Principal Magistrates court.
2. The Applicant contends that the suit property which is at Emali Town is valued at Kshs.9,500,000/= which is within the monetary jurisdiction of the Principal Magistrates court. The Applicant further states that the witnesses come from Emali and that it will be convenient for the matter to be transferred to Makindu Principal Magistrates court.
3. The Applicant's application was opposed by the Plaintiffs/Respondents based on a replying affidavit sworn on 27th October, 2023. The Respondents contends that the suit property measures 2.5 acres and has several buildings and go downs built on it and that its value is over 20,000,000/=. The Respondents state that in 2021 an 1/8 of an acre was sold for Kshs.800,000/= and that there are about 20 plots of 1/8 of an acre which automatically takes the value of the suit property beyond the monetary jurisdiction of the principal magistrate.
4. The Respondents state that the Applicant himself in paragraph 7 of the supporting affidavit admits that he has put up a house worth Kshs.3,000,000/=. The Principal magistrate's monetary jurisdiction is capped at Kshs.10,000,000/=.
5. The Respondents contend that this application is an abuse of the process of the court. Their deceased father had filed this suit at Machakos High Court. It was transferred to Nairobi at the instigation of the Defendants. The case was later transferred to Makeni ELC Court and now the Applicant is seeking to transfer it to Makindu. The Respondents contends that this is a delaying tactic.
6. In a further affidavit sworn on 13th October, 2025, the Applicant annexed a valuation report which shows that the suit property is valued at Kshs.9,500,000/=.
7. The Respondents filed submissions dated 6th November, 2025. I have considered the Applicant's application as well as the opposition to the same by the Respondents. I have also considered the submissions by the Respondents. The only issue for determination is whether this suit should be transferred to Makindu Principal Magistrates Court.
8. There is no contention that the suit property is within Emali Town and is 2.5 acres. The suit property contains several buildings including go downs which are built there. The value of the land itself is Kshs.9,500,000/= without the buildings. The valuation report which was annexed to the further affidavit states that there are several buildings but the same were not valued on instructions of the Applicants counsel. This being the case, it clear that the value of the land together with improvements may well be over the Kshs.10,000,000/= which is the monetary jurisdiction of the principal Magistrate. Even if there is a senior principal magistrate, the monetary jurisdiction is Kshs.15,000,000/=. It is not clear why the Applicant's counsel did not want the improvements valued.
9. This suit was filed in 2012 at Machakos. It was transferred to Nairobi and later transferred to Makeni. The hearing has not started because of these transfers. To transfer this matter again to Makindu when the same has been certified ready for hearing will cause further delay. In the interest of justice, the Applicants application is for dismissal. I therefore proceed to dismiss the Applicant's application with costs to the Plaintiffs/Respondents.

It is so ordered.



RULING DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 5TH DAY OF FEBRUARY, 2026.

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HON. E. O. OBAGA

JUDGE

In The Presence Of:

Mr. Kimundi for Mr. Makundi for 2nd, 3rd and 4th Defendants

Mr. Mwangi for Ms. Nyaata for Plaintiff

Court assistant – Steve Musyoki

