

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT HOMA BAY
COMMERCIAL CASE NO. E002 OF 2026

BARACOM SERVICES LIMITED.....1ST
PLAINTIFF
EUNICE AWUOR BARRACK..... 2ND
PLAINTIFF

VERSUS

ONFON MEDIA LIMITED.....
DEFENDANT

RULING

[1] Before the Court for determination is the Notice of Motion dated 25th February 2026. It was filed pursuant to **Sections IA, IB, 3, 3A & 18(1)** of the Civil Procedure Act, Cap 21 of the Laws of Kenya and all other enabling provisions of the law for orders that:

[a] Spent

[b] The Court be pleased to grant an order transferring this matter to the subordinate Court, on the ground that it falls within the pecuniary jurisdiction of the subordinate court.

[c] Costs of this application be in the cause.

[2] The application was premised on grounds that the plaintiffs entered into an agreement with the defendant herein on or about 2nd May, 2022 upon which the plaintiffs were granted a weekly loan facility of Kshs. 3,500,000/= only, via Okoa Float. The facility was to be repaid on a weekly basis together with interest. Upon

default by the plaintiffs due to what they contended to be factors beyond their control, the defendant issued a demand notice for Kshs. 7,000,000/= from the plaintiffs. Since the defendant declined their request for restructuring, they opted to file the instant application.

[3] After the defendant filed its response raising, among others the issue of jurisdiction, the plaintiffs filed the instant application contending that they failed to consider the issue of the pecuniary jurisdiction; and that the matter ought to have been filed before the Magistrate's Court; and therefore that it is in the interest of justice for the suit to be transferred to the court with jurisdiction. These grounds were expounded on in the Supporting Affidavit of the 2nd plaintiff, sworn on 25th February 2026.

[4] Indeed, **Section 7(1)** of the Magistrates' Court Act states that:

“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.”**

[5] It is manifest therefore that, although this Court has unlimited original jurisdiction in civil matters under **Article**

165(3) of the Constitution, this claim involving a contract of Kshs. 7,000,000/= ought to have been filed before the Magistrate's Court. **Section 18(1)(a)** of the Civil Procedure Act gives this Court to power to transfer such a case to the Court with jurisdiction to entertain it. It provides that:

On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court may at any stage—

(a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any court subordinate to it and competent to try or dispose of the same;

[6] Consequently, it is hereby ordered that:

[a] This being a matter falling within the pecuniary jurisdiction of the Chief Magistrate's Court, the suit be and is hereby transferred to the Chief Magistrate's Court at Homa Bay for hearing and determination, pursuant to **Section 18(1)(a)** of the Civil Procedure Act.

[b] Costs of the application to be in the cause.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT HOMA BAY
THIS 18TH DAY OF MARCH 2026**

.....

**OLGA SEWE
JUDGE**