



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

MISC. APPLICATION NO. 44 OF 2019

COUNTY GOVERNMENT OF MERU.....APPLICANT

VERSUS

ELIAS NYUMOO MUTIRITHIA.....1ST RESPONDENT

NOMAN MUTABARI IBIRI.....2ND RESPONDENT

DISTRICT LANDS ADJUDICATION AND SETTLEMENT

OFFICER TIGANIA WEST..... 3RD RESPONDENT

HON. ATTORNEY GENERAL.....4TH RESPONDENT

RULING

1. The application dated 22.8.2019 was seeking for the following orders:

(i) That the court be pleased to transfer suit no. Meru CMCC 74/2016 to the Tigania Principal magistrate's court for hearing and determination.

(ii) Costs

2. The grounds in support of the application were that:

(a) On 29.2.2016 the applicant filed a civil suit Meru CMCC no. 74/2016 at the Principal Magistrate's court at Meru against the respondents in respect of parcel no. 1325 situated at Uringu Division, Tigania West District.

(b) That the territorial/Geographic jurisdiction of the subject matter lies within Tigania Principal Magistrate's courts and not Meru Law courts.

(c) The subject being an immovable property, the suit herein ought to be heard and determined at Tigania Law courts which has jurisdiction over the same

(d) The institution of this suit at Meru Chief Magistrate's court was erroneous.

(e) The value of the subject property is below 5,000,000 and therefore Tigania Principal Magistrate's courts have pecuniary jurisdiction to hear and determine the suit.

(f) That this application seeks to have the matter transferred from the Meru Chief Magistrate's court to Tigania Principal Magistrate's court for hearing and determination.

3. In support of the application the applicant through the firm of Laichena Mugambi and company advocates has sworn a supporting affidavit whereby they averred that on 29.2.2016 the applicant filed civil suit CMCC no. 74/2014 at the Chief Magistrate's Court at Meru against the respondents in respect of Kiolo market P/No. 1325 situated at Uringu Division, Tigania West District and that the territorial/geographic jurisdiction of the subject matter lies within Tigania Law courts. They also deponed that the subject being an immovable property, the suit herein ought to be heard and determined at Tigania Principal magistrate's courts which has jurisdiction over the same thus the institution of this suit at Meru Chief Magistrates court was erroneous and hence the need to have the suit transferred to principal magistrate's court at Tigania since the property is below Kshs.5,000,000 and therefore the principal magistrate's court at Tigania have pecuniary jurisdiction to

hear and determine the suit.

4. The application is hereby allowed in terms of prayer 1. No orders as to costs.

5. The lower court file Meru CMCC No. 74/16 to forthwith be transmitted to PM's court at Tigania and that matter to be mentioned before PM's court Tigania on 5.12.2019.

6. This miscellaneous file is closed.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 27TH NOVEMBER, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Ndubi for 1st and 2nd respondents

Mutegi holding brief for Laichena for applicant

Kieti for 3rd and 4th respondents

1st and 2nd respondent

HON. LUCY. N. MBUGUA

ELC JUDGE