



REPUBLIC OF KENYA



Rubane v Mungathia & 3 others (Environment and Land Miscellaneous Case E008 of 2025) [2025] KEELC 5592 (KLR) (21 July 2025) (Ruling)

Neutral citation: [2025] KEELC 5592 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT CHUKA
ENVIRONMENT AND LAND MISCELLANEOUS CASE E008 OF 2025**

BM EBOSO, J

JULY 21, 2025

BETWEEN

MARINDO RUBANE APPLICANT

AND

JOSPHAT NYAGA MUNGATHIA 1ST RESPONDENT

LAND ADJUDICATION OFFICER, THARAKA NORTH 2ND RESPONDENT

LAND REGISTRAR 3RD RESPONDENT

HON ATTORNEY GENERAL 4TH RESPONDENT

RULING

1. Through the notice of motion dated 20/6/2025, Marindo Rubane (the Applicant) seeks an order transferring Marimanti SPM E & L Case No. E027 to this court. The ground for the intended transfer is that the dominant claim in the said suit is a plea for orders of adverse possession. The applicant contends that following the pronouncement of the Court of Appeal in Nairobi Civil Appeal No. E141 of 2022, it has emerged that the SPM Court at Marimanti does not have jurisdiction to hear the said suit, hence the plea for transfer.
2. The court has considered the application. The prevailing jurisprudence is that, a suit filed in a court that does not have jurisdiction in the first place is a nullity incapable of transfer. Secondly, parties cannot, by consent or otherwise, confer jurisdiction on a court or transfer a nullity.
3. Consequently, the application dated 20/6/2025 is dismissed for lack of merit. In light of the fact that no formal response was filed in opposition to the application, there will be no award of costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT CHUKA THIS 21ST DAY OF JULY, 2025.

B M EBOSO [MR]



JUDGE

In the Presence of:

Mr. Mugira for the Applicant

Ms. Mootian holding brief for Mr. Murimi for the 1st Respondent

Ms. Kendi

Court Assistant – Mr. Mwangi

