



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC MISCELLANEOUS CASE NO. 04 OF 2018

JULIUS MBAKA.....APPLICANT

VERSUS

NAIVASHA KUREIYA.....1ST RESPONDENT

JANE CIANJOKA GANCENGU MWIANDI ALIAS JANE CIANJOKA MWIANDI.....2ND RESPONDENT

DOROTHY KAGENDO MWINDI.....3RD RESPONDENT

(BEING SUED AS LEGAL REPRESENTATIVE IN THEIR CAPACITY AS WIDOWS OF THE DECEASED)

RULING

1. This application is dated **27th June, 2018** and seeks orders:

1. That the honourable court be pleased to review and or set aside the order made by ELC, Meru on **17th September, 2014** transferring HCCC No. 188 of 2002 (OS) to Chuka Chief Magistrate's Court now under court file; CMCC NO. 133 OF 2014 – Chuka.
2. That the honourable court be pleased to transfer back CMCC No. 133 of 2014 – Chuka to this court for hearing and disposal.
3. That the costs of this application be in the cause.

2. The application has the following grounds:

- a) That the subject matter of this suit is based on a claim for adverse possession which can only be heard by the Environment and Land Court that has the status of the High Court.
- b) That it was therefore an error on the part of the ELC, Meru to transfer the matter to the Chief Magistrate's Court at Chuka, which error this application seeks to correct

3. During interpartes hearing, the parties were in agreement that the main suit, being an O.S, cannot be heard by the CM's Court.

4. In the circumstances, this application is allowed.

5. Parties to fully comply with order 11, CPR, within 30 days of today.

6. Suit to be heard on **20th September, 2018**.

7. Costs shall be in the cause.

8. It is so ordered.

Delivered in open court at Chuka this 9th day of July, 2018

in the presence of:

I.C. Mugo h/b Ochieng Ogutu for Plaintiff/Applicant

Riungu for 1st defendant/Respondent

P.M. NJORGE

JUDGE