

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT NAIROBI

ELC MISC. NO. 80 OF 2017

JOHN SEWE OYENGO.....PLAINTIFF

VERSUS

JAMES NYABANDO SOROBEA.....1ST DEFENDANT

PAUL KANGETHE WANJORO.....2ND DEFENDANT

FRANCIS KINUTHIA COMBA.....3RD DEFENDANT

NJOROGE WAWERU T/A CHURCH OF THE LORD....4TH DEFENDANT

RULING

I have considered the Notice of Motion dated 26th April, 2017 together with the affidavit filed in support thereof. I am of the view that there is nothing stopping the Chief Magistrate's Court from hearing and determining CMCC No. 5879/2009 John Sewe Oyengo Vs. James Nyabando Sorobea. The decision of the High Court at Malindi which quashed the provisions of the Magistrates' Courts Act, 2015 and the Environment and Land Court Act, 2011 which conferred jurisdiction upon the Magistrates to hear and determine environment and land disputes was stayed by the Court of Appeal. The effect of the decision of the Court of Appeal was that the Magistrates' Courts were to continue handling environment and land cases before them pending the final decision of the Court of Appeal on the matter. For the foregoing reasons, there is no justification for the present application seeking to transfer a matter from the Chief Magistrate's Court to this court. The application is refused. I direct that Milimani CMCC No. 5879/2009 does proceed before the Chief Magistrate's court.

Each party shall bear its own costs of the application.

Delivered and Signed at Nairobi this 13th day of July, 2017

S. OKONG'O

JUDGE