



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MIGORI**

**ENVIRONMENT AND LAND COURT**

**ELC MISC NO. 28 OF 2017**

**FELIX AKOWA RABONGO.....PLAINTIFF**

**-versus-**

**PETER NYANENGO.....1<sup>ST</sup> DEFENDANT**

**MIGORI COUNTY GOVERNMENT.....2<sup>ND</sup> DEFENDANT**

**RULING**

1. Mr. Kisia counsel for the Applicant, **FELIX AKOWA ROBONGO** has made an application to have the Notice of Motion application dated 11/4/2017 marked as abandoned with no orders as to costs. The main issue sought in the application is the transfer of suit **No. 135 of 2014** from Migori Chief Magistrate's court to the Kisii ELC for want of jurisdiction by the CM's court.

2. The application has not been served on the Respondents. It is a fresh application.

3. I note the entire application. I think the application to abandon it is in consonant with **Article 159 (2) (b) of the Constitution of Kenya 2010** on expeditious disposal of cases. I am aware of the jurisdiction conferred upon the Magistrates' courts to entertain ELC cases; see **Civil Appeal No. 287 of 2016** consolidated with **Civil Appeal No. 3 of 2017 ( Court of Appeal)**.

4. The abandonment of the application cannot prejudice the Respondents who have not been served. I find it merited in the circumstances.

5. I accordingly allow the application by counsel Kisia for the applicant. The Notice of Motion application dated 11/4/2017 is marked as abandoned with no orders as to costs.

**DELIVERED, DATED and SIGNED at MIGORI this 7<sup>th</sup> day of November 2017.**

**G. ONGONDO**

**JUDGE**

**In presence of :-**

Mr. Kisia Counsel for the Applicant

Tom Maurice – Court Assistant