



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: NAMBUYE, OKWENGU & MUSINGA, J.J.A.)**

**CIVIL APPLICATION NO. 94 OF 2020**

**BETWEEN**

**AKHAN HOLDINGS LIMITED.....1ST APPLICANT**

**SAMMY BOIT ARAP KOGO.....2ND APPLICANT**

**AND**

**NATIONAL SOCIAL SECURITY FUND BOARD OF TRUSTEES.....RESPONDENT**

(Being an appeal from the Judgment of the High Court of Kenya at Nairobi

(Farah Amin, J.) dated on 19th November 2019) **in H.C.C.C. No. 268 OF 2004)**

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**RULING OF THE COURT**

1. This is an application for an injunction and/or stay of proceedings pending the hearing and determination of an appeal against the ruling and order of Farah Amin, J. delivered on 19th November, 2019.
2. The facts that gave rise to this application are that sometime in August 2019 the applicants filed an application seeking to transfer **HCCC No. 268 of 2004** from the Commercial and Admiralty Division of the High Court to the Environment and Land Court. The gravamen of that application was that the suit raised pertinent questions touching on ownership of a parcel of land known **as L.R. No. 18486** and under **Article 162 (2) (b)** of the **Constitution** it is only the **Environment and Land Court** that has jurisdiction to determine the dispute.
3. Vide a ruling delivered on 19th November 2019, the learned judge dismissed the application on grounds, *inter alia*, that what was before the court was a dispute that fell squarely within the jurisdiction of the Environment and Land Court, but that notwithstanding, directed that the file be placed before the presiding judge of the Commercial and Admiralty Division for re-allocation.
4. The application was not opposed and no appearance was made by the respondents.
5. We are satisfied that the intended appeal is arguable. As regards the nugatory aspect, we agree with the applicant’s contention that unless the orders sought are granted the suit may proceed to be heard and determined before a court that may have no jurisdiction.
6. We therefore grant the orders as sought and make no orders as to costs.

**Dated and delivered at Nairobi this 7th day of August, 2020.**

**R.N. NAMBUYE**

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**JUDGE OF APPEAL**

**HANNAH OKWENGU**

.....

**JUDGE OF APPEAL**

**D.K. MUSINGA**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original.

*Signed*

**DEPUTY REGISTRAR**