



REPUBLIC OF KENYA



**KENYA LAW**  
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**Moturi v Credit Bank Limited & 3 others (Environment & Land Case E007 of 2024) [2024] KEELC 7396 (KLR) (7 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 7396 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT KAJIADO**  
**ENVIRONMENT & LAND CASE E007 OF 2024**  
**LC KOMINGOI, J**  
**NOVEMBER 7, 2024**

**BETWEEN**

**RONALD RATEMO MOTURI ..... PLAINTIFF**

**AND**

**CREDIT BANK LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**FANAKA JUNIOR SCHOOL LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**HFC LIMITED ..... 3<sup>RD</sup> DEFENDANT**

**LAND REGISTRAR ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. This is the Notice of Motion dated 12<sup>th</sup> February 2024 brought under; (Order 40 Rules 1 and 2 of Civil Procedure Rules and Sections 1A, 1B, 3A and 63 (e) of the [Civil Procedure Act](#) (Cap 21) Laws of Kenya)
2. It seeks Orders;
  1. Spent.
  2. Spent.
  3. That pending the inter-parties hearing and determination of this suit, this Honourable court be pleased to grant a temporary injunction restraining the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, whether through their successors, assignees, servants, or agents, restraining them from trespassing, dealing, developing, constructing, entering, subdividing, leasing, further charging, transferring, selling, disposing, interfering, intermeddling or in any other manner whatsoever dealing with the parcels of land known as LR. No. Kajiado/Kaputiei-North/25599.



4. That pending the hearing and determination of this suit, an order of prohibition do issue prohibiting the 4<sup>th</sup> Defendant from registering any transfer, conveyance and/or instrument in respect of land parcel known as Kajiado/Kaputiei-North/25599.
5. That costs be provided for.
3. The grounds are on the face of the Applicants Notice of Motion and are set out in paragraphs a to J.
4. The Application is supported by the affidavit of Ronald Ratemo Moturi, the Plaintiff/Applicant herein, sworn on the 12<sup>th</sup> February 2024.
5. The Application is opposed. There is a Replying Affidavit sworn by Wainaina Francis Ngaruiya, Head of the Legal Department of the 1<sup>st</sup> Defendant on the 4<sup>th</sup> March 2024.
6. The 2<sup>nd</sup> Defendant/Respondent also opposed the Application through the Replying Affidavit dated 14<sup>th</sup> March 2024.
7. The 3<sup>rd</sup> Defendant/Respondent also opposed the Application through the Replying Affidavit sworn by Belinda Nyaga on the 2<sup>nd</sup> April 2024.
8. The 4<sup>th</sup> Defendant/Respondent did not participate in this application.
9. I have gone through the annexures to the 1<sup>st</sup> Defendant's/Respondent's Replying Affidavit. I note that the Plaintiff/Applicant approached the court in HC Commercial E015 of 2021; Ronald Ratemo Moturi & Another Vs. Credit Bank Limited in which he challenged the 1<sup>st</sup> Defendant's right to exercise the statutory power of sale.
10. I agree with the 3<sup>rd</sup> Defendant/Respondent's submission that this suit purely relates to a commercial dispute and does not concern the use of land within the meaning of Article 162 (2) (b) of the Constitution.

The Court of Appeal in Co-operative Bank of Kenya Limited Vs. Patrick Njuguna & 5 Others (2017) eKLR stated thus;

While exclusive, the jurisdiction of the Environment and Land Court is limited to the areas specified under Article 162 of the Constitution, Section 13 of the Environment and Land Act and Section 150 of the Land Act; none of which concern the determination of accounting questions. Consequently, this dispute does not fall within any of the areas envisioned by the said provisions. On the other hand, the jurisdiction of the High Court over accounting matters is without doubt, for under Article 165 (3) of the Constitution, provides inter alia, that "1. Subject to clauses (5) the High court shall have:-

- a. Unlimited original jurisdiction in criminal and civil matters;"

For the above reasons, the Appellant's objection on jurisdiction was rightly dismissed."

11. I am guided by the above authority in finding that this court has no jurisdiction to deal with the dispute herein.
12. In Owners of the Motor Vessel Lillian "s" Vs. Caltex Oil Kenya Limited (1989) KLR 1 it was held that;  
"Jurisdiction is everything. Without it, a court has no power to take one more step, where a court has no jurisdiction there would be no basis for a continuation of proceedings, pending



other evidence. A court of law, downs its tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.”

13. I am guided by the above authority in finding that the correct court to handle the issues raised by plaintiff is the High Court. I hereby transfer this matter to the High Court, Kajiado for directions on how it should proceed.

The matter is to be placed before the Deputy Registrar, High Court for directions on 4<sup>th</sup> December 2024.

Orders shall issue accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 7<sup>TH</sup> DAY OF NOVEMBER 2024.**

**L. KOMINGOI**

**JUDGE.**

**In the presence of:**

Mr. Thuita Kiiru for the Plaintiff/Applicant.

Ms. Maitai for the 1<sup>st</sup> Defendant/Respondent.

Ms. Nyawira for the 2<sup>nd</sup> Defendant/Respondent.

Mr. Mutua for the 3<sup>rd</sup> Defendant/Respondent.

Ms. Kerubo for the 4<sup>th</sup> Defendant/Respondent.

Court Assistant – Mutisya.

