



**Samuel v Mukuha (Environment and Land Miscellaneous Application  
E022 of 2022) [2023] KEELC 619 (KLR) (30 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 619 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MURANGA  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E022 OF 2022  
LN GACHERU, J  
JANUARY 30, 2023**

**BETWEEN**

**MWANGI SAMUEL ..... PLAINTIFF**

**AND**

**DAVID GACHANGO MUKUHA ..... DEFENDANT**

**RULING**

1. This court has considered the notice of motion application dated October 5, 2022, for transfer of Murang'a MCELC No 166 of 2010, from Murang'a Chief Magistrate's Court to Kigumo Law Courts.
2. The reasons for the transfer is that the suit property Loc 2/Mairi/276 and Loc 2/Mairi/823 fall under the jurisdiction of Kigumo SPM Court and thus reasons for the transfer. That at the time of filing the suit, Kigumo SPM Court, did not have jurisdiction to hear and determines land matters.
3. The application is opposed, by the defendant through the replying affidavit of J Mwangi Ben Advocate, who averred that the suit has been in court for over 12 years and no good reasons have been given for filing this application after 12 years.
4. The court has considered the application, the replying affidavit and the further affidavit and finds that; - The main reasons for seeking to transfer is because the Magistrate in Kigumo Court now has jurisdiction to hear land matters. The *Magistrates Courts Act* was amended in 2015. The suit MCELC No 166 of 2010, that is supposed to be transferred was filed in 2010. It has been in the court system for over 12 years.
5. Section 1A of the *Civil Procedure Act*, provides for the overriding objective of the Act which is to facilitate just, expeditious and proportionate resolution of the disputes under the said Act.
6. The courts are encouraged to facilitate expeditious disposal of matters before the judicial system.



7. Section 3A of the said *Civil Procedure Act* gives the court inherent power to make such orders as may be necessary for ends of justice and prevent abuse of the court process.
8. Seeking to transfer a matters from one court to another given that the said matter was filed in 2010, is an abuse of the court process. The court finds that the necessary orders herein that would promote the achievement of the overriding objective of the Act as provided by sections 1A & 1B of *Civil Procedure Act* is to decline the instant application.
9. Let the applicant prosecute the mater before the Murang'a Chief Magistrate Court expeditiously. There are enough Magistrates with relevant pecuniary jurisdiction to hear and determine this matter at Murang'a Chief Magistrate's Court. The objective of judiciary at this time is to have all old matters prosecuted and determined expeditiously and not to transfer them from one court to another. The application dated October 5, 2022, is dismissed with costs to the respondent.
- 10 The suit Murang'a MCELC No 166 of 2010 Mwangi Samuel vs David Gachango Mukuha to proceed expeditiously before Murang'a Chief Magistrate's Court.
11. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 30<sup>TH</sup> DAY OF JANUARY, 2023.**

**L. GACHERU**

**JUDGE**

**In the presence of;**

**M/s Wainaina for the Applicant**

**Mr. Mwangi Ben for the Respondent**

**Joel Njonjo - Court Assistant**

**L. GACHERU**

**JUDGE**

**30/1/2023**

