



**Samuel v Mwangi (Environment & Land Miscellaneous Case
E024 of 2022) [2023] KEELC 554 (KLR) (30 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 554 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MURANGA
ENVIRONMENT & LAND MISCELLANEOUS CASE E024 OF 2022
LN GACHERU, J
JANUARY 30, 2023**

BETWEEN

MWANGI SAMUEL PLAINTIFF

AND

KIHARA MWANGI DEFENDANT

RULING

1. This Court has considered the Notice of Motion Application dated 5th October 2022, for transfer of Murang'a MCELC NO. 164 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/688, 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 said suit MCELC No.164 of 2010, 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; -
5. The main reasons for seeking for the 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 that is supposed to be transferred was filed in 2010. It has been in the Court system for over 12 years.
6. 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.
7. The Courts are encouraged to facilitate expeditious disposal of matters before the Judicial system.



8. 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 to prevent abuse of the Court process.
9. Seeking to transfer a matter from one Court to another given that the said matters 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.
10. 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 5th October 2022, is dismissed with costs to the Respondent.
10. The suit Murang'a MCELC NO 164 of 2010 Mwangi Samuel Vs Kihara Mwangi to proceed expeditiously before Murang'a Chief Magistrate's Court.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 30TH 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

