



**Wines and Spirits Kenya Ltd v Orient Transport & 2 others; Chuchu & another (Interested Parties) (Environment and Land Case Civil Suit E263 of 2020) [2023] KEELC 873 (KLR) (26 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 873 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE CIVIL SUIT E263 OF 2020  
J OMANGE, J  
JANUARY 26, 2023**

**BETWEEN**

**WINES AND SPIRITS KENYA LTD ..... PLAINTIFF**

**AND**

**ORIENT TRANSPORT ..... 1<sup>ST</sup> DEFENDANT**

**SAMMY PETER GIOCHE ..... 2<sup>ND</sup> DEFENDANT**

**THE HON. ATTORNEY GENERAL ..... 3<sup>RD</sup> DEFENDANT**

**AND**

**MARGARET WAMBUI CHUCHU ..... INTERESTED PARTY**

**LUCY WAITHERA KIMANGA ..... INTERESTED PARTY**

**RULING**

1. The applicants application dated June 29, 2022 prays for an order that Milimani Commercial Case No 8000 of 2019 be transferred to this court and upon transfer be consolidated with this suit as ELC 263 of 2020. The application is brought on the grounds that the parties are the same and the cases arise out of a dispute the plaintiff has against the defendant relating to land parcel no LR/ 209/138/46 Nairobi situated on Duruma Road.
2. The application is not opposed by all parties save the 1<sup>st</sup> Defendant who had indicated that he would be filing a response. As at the date of writing this ruling there is no response. As such the application is considered unopposed. The court therefore finds that the facts alleged by the applicant are true namely; the parties in this case and Milimani Commercial Case no 8000 of 2019 are the same and the dispute in arises from the same property.



3. Order 1 A and B of the *Civil Procedure Act* places on the courts a responsibility to give effect to the overriding objectives which include; the just determination of the proceedings; the efficient disposal of the business of the Court; the efficient use of the available judicial and administrative resources; and the timely disposal of the proceedings, and all other proceedings in the Court, at a cost affordable by the respective parties.
4. The efficient disposal of the business of the court requires that a suit involving the same parties and the same subject matter proceed in one court. In the circumstances the application is allowed in the following terms:-
  - a. That this suit be consolidated with Milimani Commercial Case No 8000 of 2019 for purposes of hearing and determination. The hearing shall be conducted on the basis of the pleadings already filed subject to any subsequent amendments in Milimani Commercial case NO 8000 of 2019 be transferred in this court.
  - b. The file for this suit shall be the lead file for purposes of filing any further documents and recording proceedings. A mention date to be given for the court to give directions on how to proceed.
  - c. The costs of the application shall be in the cause.

**DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 26<sup>TH</sup> DAY OF JANUARY 2023.**

**JUDY OMANGE**

**JUDGE**

In the presence of: -

Mr. Kiluva for Mr. Kivuva for the Plaintiffs

Mr. Gitau for 1<sup>st</sup> Interested Party

Mr. Kiarie for 2<sup>nd</sup> and 3<sup>rd</sup> Interested Parties

