



REPUBLIC OF KENYA



**KENYA LAW**  
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**Olal v Jay Jay Holdings Limited (Civil Appeal E1112 of 2024)  
[2025] KEHC 1105 (KLR) (Civ) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1105 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL**

**CIVIL APPEAL E1112 OF 2024**

**TW OUYA, J**

**FEBRUARY 27, 2025**

**BETWEEN**

**ERASTUS OCHIENG' OLAL ..... APPELLANT**

**AND**

**JAY JAY HOLDINGS LIMITED ..... RESPONDENT**

**RULING**

1. This is a notice of motion application dated 13<sup>th</sup> November 2024 by the applicant herein seeking to set aside orders issued in *Nairobi MCELC Number 362 of 2023*. The matter revolves around property described as: “Two Bedroomed G7 situated on the 3<sup>rd</sup> floor block G Flat/Apartment known as Jay Jay, in Lucky Summer Estate Nairobi”. The substratum of the appeal is prayer for restoration, reinstatement and/or return of the applicant into ownership and an injunction restraining the respondent and/or his agents from letting, leasing, charging, selling, transferring, alienating or in any manner whatsoever interfering with the plaintiff’s investment, ownership and possession and/or occupation of the said property.
2. That the said orders be granted pending the hearing and determination of this appeal pending the hearing and determination of this appeal.
3. The respondent has filed and raised a preliminary objection to the above application and urges this court to determine it summarily on the grounds inter alia that:
  - i. “The primary Suit and judgement appealed against subject of this proceedings originated from Environment and Land Court and issues therein are matters outside the jurisdiction of the High Court.



- ii. The appeal and the Application on the face of the Memorandum of appeal and the Application are misplaced and ought to be struck out for being filed in the wrong court.
  - iii. The application is overtaken by events the Applicant having been evicted on 15<sup>th</sup> October 2025 in execution of the subject decree....”
4. In *Kennedy Mong'are v Loibex Builders* Petition No. E088 of 2024 the court pronounced that jurisdiction is primordial in every suit and it has to be there when the suit is filed. The Court also reaffirmed that without jurisdiction no court is capable of making an order for transfer. The same position was held in the court of appeal case of *Owners of Motor Vessel 'Lilian S' v Caltex Oil* (Ltd) [1989]eKLR that without jurisdiction, the court cannot make any more step forward.
  5. In *Abidha Nicholus v Attorney General & Others* ELC Case NO. E007 Of 2023 the court pronounced that without jurisdiction, a court cannot confer jurisdiction upon itself. The subject matter of this application obviously falls under Environment and Land Court jurisdiction and the High Court has got no basis to handle it.
  6. This matter having been filed in a court that has no jurisdiction , the same cannot survive. I therefore strike it out.

**DATED, SIGNED AND DELIVERED VIRTUALLY THIS 27TH DAY OF FEBRUARY, 2025.**

**HON. T. W. OUYA**

**JUDGE**

For Appellant: No Appearance

For Respondent: Mr. Mirie

Court Assistant: Martin

