



REPUBLIC OF KENYA



**Wamaitha v Gathima Investment & 2 others (Civil Appeal
E297 of 2022) [2025] KEHC 2908 (KLR) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 2908 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL APPEAL E297 OF 2022
DO CHEPKWONY, J
FEBRUARY 27, 2025**

BETWEEN

STEPHEN WANAINA WAMAITHA APPELLANT

AND

GATHIMA INVESTMENT 1ST RESPONDENT

LUCY NGINA MAGU 2ND RESPONDENT

SUMAC DTM LIMITED 3RD RESPONDENT

RULING

1. The matter is for mention for parties to confirm compliance of directions on the Notice of Motion application 10th December, 2024 in which the Applicant has sought for orders:-
 - a. That this Honourable Court be pleased to be reviewed and or be varied to amend the order of 28th June, 2024 that reads;-
“,,the Chief Magistrate, Limuru for the re-trial” to read as “ Kiambu Law Court”.
 - b. That this Honourable court do issue an order for the transfer of the lower court Kiambu CC. E448 of 2021 to Kiambu Law Courts from Limuru Law Courts.
 - c. That matter be certified urgent, as the sister file, Kiambu CC No.E447 of 2021 that was stayed awaiting the instance High Court Judgment, has a mention on 25th February, 2025.
 - d. That the costs of this application be provided for.
2. The application is premised on the grounds set out on its face and reiterated in the Supporting Affidavit sworn by the Applicant, Stephen Wainaina Wamaitha on even date. The main ground is that the order directing the lower court for trial in Limuru instead of Kiambu as a typing error.



3. M/S Gathoni, counsel for the Applicant told court that they had served the application upon the Respondent.
4. In response, counsel for the Respondents, M/S Nyatta indicated that they were not opposed to the prayers sought in the application. That being so, the Notice of Motion application date 10th December, 2024 be and is hereby allowed with the following orders issuing:-
 - a. The order of 28th June, 2024 that reads “the Chief Magistrate’s Court Limuru” is hereby reviewed and or varied to read “Kiambu Law Court”.
 - b. The Kiambu CC.E448 of 2021 be re-transferred from Limuru Law Courts to Kiambu Law Courts.
 - c. Having been certified urgent, the application be placed before the Chief Magistrate’s Court for mention alongside Kiambu CC No.E447 of 2021.
 - d. There shall be no orders as to costs.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 27TH DAY OF FEBRUARY, 2025.

D. O. CHEPKWONY

JUDGE

M/S Gathoni counsel for Appellant

M/S Nyatta counsel for Respondents

Court Assisant - Martin

