



REPUBLIC OF KENYA



KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

**Rajo Electronics v Reach and Rise ICT Solutions Ltd (Civil Case E083 of 2025)
[2025] KEHC 4023 (KLR) (Commercial and Tax) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 4023 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE E083 OF 2025
F GIKONYO, J
MARCH 27, 2025**

BETWEEN

RAJO ELECTRONICS APPLICANT

AND

REACH AND RISE ICT SOLUTIONS LTD RESPONDENT

RULING

Transfer of suit

1. Before the court is the respondent's motion on notice dated 11th March 2025, which is seeking an order for transfer of this suit to the Chief Magistrate's Court at Milimani for trial.
2. The motion is expressed to be brought under Sections 1A, 1B, 3A, 11 and 18(1) of the *Civil Procedure Act*.
3. For the avoidance of confusion, the parties shall be identified using their titles in the originating pleadings.
4. The motion is premised on the grounds set out in the motion, the supporting affidavit sworn by Adnan Shafii Mahdi on 11th March 2025 and written submissions dated 17th March 2025.
5. The grounds are that the subject matter of the suit is well within the pecuniary jurisdiction of the Chief Magistrate's Court.
6. The respondent relied on *David Kabungu v Zikarenga & 4 others Kampala* HCCS No. 36 of 1995 cited in *Rose Mbithe Ndambuki v Peter Kimatu Wambua, & 2 others* [2019] eKLR for the assertion that the principal matters to be taken into consideration are balance of convenience, questions of expenses, interest of justice and possibilities to undue hardship.



7. The respondent asserted that it has met the prerequisites for the transfer of the suit as its application for transfer has been brought as early as possible as required by the jurisprudence set in *Martin Odhiambo v George Gobanga* [2022] eKLR. It also asserted that the balance of convenience tilts in favour of a transfer because no harm will be occasioned upon the applicant.
8. Further, the respondent asserted that the applicant will neither face any undue hardship nor incur expenses due to the transfer as the jurisdiction remains within the same locality.
9. The respondent relied on Section 11 of the *Civil Procedure Act*, to the effect that a suit shall be instituted in the court of the lowest grade to try it. It also relied on *Interactive Gaming & Lotteries Limited v Safaricom Limited* (Commercial Civil Case E684 of 2021) [2021] KEHC 335 (KLR) (Commercial and Tax) (3 December 2021) (Ruling) to submit that it is in the interests of justice that the matter is transferred for efficient use of scarce resources.

Response

10. The applicant opposed the application through written submissions dated 24th March 2025. It highlighted that the gist of the Originating Summons is a tenancy deed raising the issue of whether the respondent should be restrained from the continuous sale, use and occupation of its stock and shop. It also seeks orders to access the respondent's accounting system to compute the value of its stock, business, accumulated payable rent and profits from 2021 to date.
11. The applicant relied on Article 165(3) of *the Constitution* and Order 37 Rule 11 of the *Civil Procedure Rules* to assert that this court is clothed with the jurisdiction to hear and determine the matter.
12. The applicant submitted that the Respondent/Applicant has failed to establish proof to warrant the transfer of the instant suit to Milimani Chief Magistrate's Court. It also submitted that the applicant has failed to prove that there will be occasioned delays and unnecessary expenses if the case is to be prosecuted in the High Court. It relied on the Uganda High Court decision in *David Kabungu v Zikarenga & 4 others Kampala* HCCS No. 36 of 1995 to the effect that the onus is upon the applicant to make out a strong case for the transfer of the suit to another court.
13. The applicant pointed out that while the respondent's computations of the value of the subject matter based on the applicant's business stock as at 2021 and its shop's accumulative payable rent is unsupported by evidence.

Analysis and Determination

14. This court has original and unlimited jurisdiction in civil cases under Article 165(3) of *the Constitution*. Nevertheless, the question is, whether the matter should be transferred to the Chief Magistrate's Court with jurisdiction to try it.
15. Under Article 165 (6) of *the Constitution* read with Section 18 of the *Civil Procedure Act*, the court may transfer a suit to a subordinate court competent to try it.
16. The whole idea of transfer of cases to the lowest court competent to try the cases is to avail the parties of use and benefit of the court hierarchy as a means of expanding access to justice.
17. The transfer should also further the overriding objective and promote the efficient use of the available judicial and administrative resources under Sections 1A and 1B of the *Civil Procedure Act*.



18. Section 7 of the [Magistrates Court Act No. 26 of 2015](#) sets out the jurisdiction of magistrates' court as follows, that: -

- “(1) A magistrate's court shall have and exercise such jurisdiction and powers in proceedings of a civil nature in which the value of the subject matter does not exceed
- a) twenty million shillings, where the court is presided over by a Chief Magistrate;
 - b) fifteen million shillings, where the court is presided over by a Senior Principal Magistrate;
 - c) ten million shillings, where the court is presided over by a Principal Magistrate;
 - d) seven million shillings, where the court is presided over by a Senior Resident Magistrate; or
 - e) five million shillings, where the court is presided over by a Resident Magistrate.”

19. From the evidence adduced, the value of the subject matter is slightly above 4 million shillings which is within the pecuniary jurisdiction of the chief magistrates' court.

20. There is also nothing or cause of action in this case, which may deprive the chief magistrates' court the jurisdiction to try this matter. The respondent stated that the suit was commenced by way of originating summons under Order 37 of the [Civil Procedure Rules](#). However, the document uploaded on the Case Tracking System (CTS) albeit captured as 'Originating Summons' is a Notice of Motion dated 7th February 2025 seeking temporary injunctive reliefs.

Conclusion and orders

21. In light thereof, the court is satisfied that, the chief magistrates court has the jurisdiction to hear this case. S.7 of the [Magistrates Courts Act](#). The transfer would also further the overriding objective and promote the efficient use of the available judicial and administrative resources under Sections 1A and 1B of the [Civil Procedure Act](#).

Disposition

22. The upshot is that the respondent's application dated 11th March 2025 is allowed as prayed. This suit is transferred to the chief magistrates' court at Milimani Commercial Court for hearing and disposal by a court competent to hear it. Costs in the cause.

DATED, SIGNED AND DELIVERED THROUGH MICROSOFT TEAMS ONLINE APPLICATION THIS 27TH DAY OF MARCH, 2025.

F. GIKONYO M

JUDGE

In the presence of: -

Atalo for Respondent



Wachuna for Daresh for Applicant

CA - Godfrey

