



**Omondi & another v Republic (Criminal Miscellaneous Application E028 of 2024) [2024] KEHC 4583 (KLR) (29 April 2024) (Ruling)**

Neutral citation: [2024] KEHC 4583 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
CRIMINAL MISCELLANEOUS APPLICATION E028 OF 2024**

**DO OGEMBO, J**

**APRIL 29, 2024**

**BETWEEN**

**EDWIN OWINO OMONDI ..... 1<sup>ST</sup> APPLICANT**

**MERYLINE KIPNG'ENO OWINO ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(Being an Application for speedy hearing and determination of Case in the CM's Court at Siaya Criminal Case No. E364 of 2022)*

**RULING**

1. I have considered this Application by the Applicants dated 2/4/2024. I have also considered the oral submissions of both the Applicants and the response by the State. The reason given by the Applicants is that this case is taking rather long, from 2022. And that the last and only witness gave evidence in July 2023. That it has been adjourned severally leading to a denial of the Constitutional Right to fair hearing.
2. I have perused the record of proceedings before the lower court. It is true that the case has been adjourned many times whatever reasons have been given to warrant such adjournments.
3. Justice must be done and must be seen to be done with the circumstances of this case and the reason given by the Applicants in this Application for transfer of this case, this court is of the opinion that justice would not be seen to have been done should the case proceed before the same magistrate, Hon. Lester Simiyu.
4. It is for this reason that I order that this case be transferred from Court 2, (Hon. Lester Simiyu and be allocated for trial by another magistrate of competent jurisdiction.



5. I order that this case be mentioned before Hon. Chief Magistrate today at 12.00 pm for allocation to a different magistrate for trial and determination. I also order that such trial must be concluded within reasonable time.

**DATED, SIGNED AND DELIVERED THIS 29<sup>TH</sup> DAY OF APRIL, 2024.**

**D. O. OGEMBO**

**JUDGE**

**29/4/2024**

