



REPUBLIC OF KENYA



**Otuo v Oluoch & another (Environment & Land Case E051 of 2021)  
[2023] KEELC 16124 (KLR) (16 March 2023) (Ruling)**

Neutral citation: [2023] KEELC 16124 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISUMU  
ENVIRONMENT & LAND CASE E051 OF 2021**

**E ASATI, J**

**MARCH 16, 2023**

**BETWEEN**

**SIPROSA ATIENO OTUO ..... PLAINTIFF**

**AND**

**BOAZ OGUNA OLUOCH ..... 1<sup>ST</sup> DEFENDANT**

**DISTRICT LAND REGISTRAR – KISUMU ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. The suit herein was compromised through a consent entered into by the Plaintiff and the 1<sup>st</sup> Defendant vide which the Plaintiff's claim as contained in the Originating summons was granted. The parties were however unable to agree on the issue of costs and left it to the court for determination.
2. Section 27 of the *Civil Procedure Act* gives the court discretion on costs of and incidental to all suits and further gives the court full power to determine by whom and out of what property and to what extent such costs are to be paid. The proviso to that section is to the effect that the costs of any action cause or other matter shall follow the event unless the court shall for good reason otherwise order.
3. Given the terms of the consent, it is clear that the Plaintiff is the successful party in the action as his claim has been allowed hence entitled to costs. However, the special circumstances of the case namely; that the 1<sup>st</sup> Defendant readily conceded the claim and voluntarily entered into the consent thereby settling the dispute without engaging in protracted litigation, secondly as it appears from the affidavits filed, the parties are related, form good reason for me to exercise the discretion given by law and order otherwise. In the premises I award the plaintiff half the costs of the suit.
4. Orders accordingly.

**RULING, DATED AND SIGNED AT KISUMU, READ VIRTUALLY THIS 16<sup>TH</sup> DAY OF MARCH 2023 THROUGH MICROSOFT TEAMS ONLINE APPLICATION.**



**E. ASATI,**

**JUDGE.**

In the presence of:

Maureen: Court Assistant.

No appearance for the Plaintiff.

Defendant present in person

No appearance for the 2<sup>nd</sup> Defendant.

