



**Okeya v Obabo (Sued as the Administrator of the Estate of the late Dickson Obabo Were (Deceased)) (Environment & Land Case 4 of 2022) [2023] KEELC 17799 (KLR) (26 April 2023) (Ruling)**

Neutral citation: [2023] KEELC 17799 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY**  
**ENVIRONMENT & LAND CASE 4 OF 2022**  
**GMA ONGONDO, J**  
**APRIL 26, 2023**  
**(FORMERLY MIGORI ELC O.S NO E16 OF 2021)**  
**IN THE MATTER OF LAND PARCEL, NO**  
**KANYAMWA/KOCHIENG/KOMUNGU/KAKAETA/1070**  
**IN THE MATTER OF SECTION 38 OF THE LIMITATION OF ACTION**  
**ACT CAP 22 LAWS OF KENYA**  
**AND**  
**IN THE MATTER OF ORDER 37 RULE 7(I) OF THE CIVIL PROCEDURE**  
**RULES**  
**BETWEEN**  
**MOURINE OUMA OKEYA ..... APPLICANT**  
**AND**  
**RAYMOND OCHIENG OBABO ..... RESPONDENT**  
**SUED AS THE ADMINISTRATOR OF THE ESTATE OF THE LATE DICKSON**  
**OBABO WERE (DECEASED)**

**RULING**

1. The applicant through Omondi Abande and Company Advocates sued the respondent by way of an originating summons dated February 12, 2021 seeking determination of the following questions:
  - a. Is Dickson Obabo Were (deceased) the registered proprietor of LR No Kanyamwa/Kochieng/Komungu/Kakaeta/1070 measuring approximately 7.6 Ha?



- b. Is Raymond Ochieng Obabo, the administrator to the estate of Dickson Obabo Were?
  - c. Has the applicant been in actual, factual possession and in physical occupation of the whole parcel of land of land measuring 7.6 Ha?
  - d. Has the said occupation and possession been peaceful, uninterrupted and has the same been known to or by the respondent and the previous registered owner?
  - e. What is the cumulative and or total period or duration of such occupation to date?
  - f. Was the entry or ingress into the said parcel of land without the permission, let and or at the instance of the respondent and/or the previous registered owner?
  - g. Has the applicant fulfilled all the singular the requirements for a declaration for the extinction of the registered proprietor's interests in the said parcel of land and the registration of the same in their favour by virtue of the doctrine of adverse possession?
  - h. Should a declaration be made that the ownership and proprietary rights and interests of the registered owner and in turn the estate of the deceased be and are hereby extinguished as the estate holds the subject parcel of land Kanyamwa/Kochieng/Komungu/Kakaeta/1070 measuring approximately 7.6 Ha of the suit parcel in trust for the applicant?
  - i. Should an order issue to the Land Registrar HomaBay, for the registration of the applicant as the proprietor of the said portion in place of the deceased?
  - j. Who should meet the costs of this suit.
2. A notice to show cause dated March 23, 2023 was duly issued herein under order 17 rule 2 (1) of Civil Procedure Rules, 2010.
  3. Today, the parties are absent without any reason.
  4. In the spirit of article 159(2)(b) of the Constitution, 2010, this suit is hereby dismissed with no orders as to costs under order 17 rule 2 (supra).
  5. It is so ordered.

**DELIVERED AND DATED AT HOMABAY THIS 26<sup>TH</sup> DAY OF APRIL 2023**

**G.M.A ONG'ONDO**

**JUDGE**

**PRESENT**

**1. Edith, Court Assistant.**

**2. Parties, both absent.**

