



**Otieno & another v Homabay County Water and Sanitation Company Limited & 2 others; County Director of Nema (Homabay) County (Interested Party) (Environment & Land Petition E001 of 2023) [2023] KEELC 17711 (KLR) (31 May 2023) (Ruling)**

Neutral citation: [2023] KEELC 17711 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY**  
**ENVIRONMENT & LAND PETITION E001 OF 2023**  
**GMA ONGONDO, J**  
**MAY 31, 2023**

**BETWEEN**

**MICHAEL KOJO OTIENO AND ANOTHER ..... PETITIONER**

**AND**

**HOMABAY COUNTY WATER AND SANITATION COMPANY LIMITED ..... 1<sup>ST</sup> RESPONDENT**

**LAKE VICTORIA SOUTH WATER WORKS AGENCY ..... 2<sup>ND</sup> RESPONDENT**

**COUNTY EXECUTIVE COMMITTEE MEMBER FOR ENVIRONMENT, WATER AND SANITATION ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**COUNTY DIRECTOR OF NEMA (HOMABAY) COUNTY .... INTERESTED PARTY**

**RULING**

1. This ruling is in respect of prayer number 2 for a temporary injunction sought in the petitioners' application by way of a Notice of Motion dated April 19, 2023.
2. I have heard the petitioners in person, Ms N Nyarige learned counsel for the 1<sup>st</sup> respondent and Mr Oundo learned counsel for the 2<sup>nd</sup> respondents and in the absence of the 3<sup>rd</sup> respondent and interested party who were duly served as shown in the affidavits of service sworn on May 30, 2023.
3. The 1<sup>st</sup> respondent's counsel has prayed for more time to file and serve response to the applicant and submissions on the petition. The petitioners have no objection thereto.



4. Since all the respondents are yet to file and serve responses and submissions in the application, it would not be in the interest of justice to grant prayer No 2 in the application at this stage without hearing all the parties herein; see Articles 48,50 (1) of the *Constitution* of Kenya, 2010 and *James Kanyitta Nderitu and another v Marios Philotas Ghikas and another [2016] eKLR*.
5. Accordingly, I decline to grant a temporary injunction at this stage of the application.
6. The 1<sup>st</sup> respondent to file and serve response to the applicant and the 2<sup>nd</sup> respondent as well as the 3<sup>rd</sup> respondent and the interested parties to file and serve submissions on the application within the same period.
7. The Petitioners to serve the 3<sup>rd</sup> respondent and the interested party accordingly.
8. The application is fixed for further directions on July 26, 2023.
9. Parties are hereby encouraged to embrace Alternative Dispute Resolution methods with a view to resolving this matter.

**DATED AND DELIVERED AT HOMABAY THIS 31<sup>ST</sup> DAY OF MAY 2023.**

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

**JUDGE**

**PRESENT**

- 1. Ms. Nyarige learned counsel for 1<sup>st</sup> respondent.**
- 2. Mr. Oundo learned counsel for 2<sup>nd</sup> respondent**
- 3. Court Assistant, Mutiva and Okello.**

