



**Oyugi & 2 others v Cheptarus & 2 others (Environment & Land Case
211 of 2018) [2023] KEELC 17498 (KLR) (24 May 2023) (Ruling)**

Neutral citation: [2023] KEELC 17498 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 211 OF 2018
FM NJOROGE, J
MAY 24, 2023
(FORMERLY HCC. CASE NO: 228 OF 2008)**

BETWEEN

**JOB OKUNA OYUGI 1ST PLAINTIFF
DOUGLAS ODHIAMBO 2ND PLAINTIFF
JOSHUA OGANGO 3RD PLAINTIFF**

AND

**LABAN CHEPTARUS 1ST DEFENDANT
DOREEN ARIBETA OYUGI 2ND DEFENDANT
HON. ATTORNEY GENERAL 3RD DEFENDANT**

RULING

1. Mr Kamonjo, on the basis of a discovery that besides Nairobi HC P&A 1581 of 1992 that there may be another HC P&A No 1842/93 in respect of the estate of the late Hezekiah Oyugi, applies to have the Executive Officer of the High Court called to verify whether HC P & A 1581 of 1992 exists. The application came as a surprise to the plaintiff's counsel and the 2nd third party's counsel and naturally they opposed, the same, the least of their grounds for such objection not being that this is an old piece of litigation to which this court ought to write finis. They also think the 1st defendant is still drawing from his ample repertoire of ruses calculated at impeding the conclusion of the present litigation. This comes after Mr Kamonjo on his behalf passionately sought an adjournment yesterday to enable him address the issue of non-listing documents to be produced in this fearing by the defendant, which application was declined by this court. This morning, Mr Kamonjo appeared armed with a list of documents whose filing was not authorized by this court, date stamped May 23, 2023 and the plaintiff and the 2nd 3rd



party graciously conceded to production of all the documents which included new documents, save one letter dated February 5, 2004. That is the background to the present application.

2. I have considered the application and the objections by counsel. In this view all parties have had sufficient time to prepare for this hearing and they were confident that their records were in order. They confirmed the hearing date. If Mr Kamonjo had any intention of calling another witness the summons ought to have been sought at the mention of the suit at which the hearing date of today was fixed.
3. Further, if the court were to accede to this sudden request there is no way of telling when the present litigation will ever be concluded since every time some tiny bit of information however remotely touching on the estate of H. Oyugi is found in future it may afford any of the parties a right to invoke the precedent that may be set by allowing the present application.
4. The upshot of the foregoing is that I find no merit in Mr Kamonjo's application and it is hereby dismissed. Hearing to proceed.

DATED, SIGNED AND DELIVERED AT NAKURU IN OPEN COURT ON THIS 24TH DAY OF MAY, 2023.

MWANGI NJOROGE

JUDGE, ELC, NAKURU

