



REPUBLIC OF KENYA



KENYA LAW
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Onyango v Akumu (Civil Appeal 4 of 2020) [2022] KEHC 3091 (KLR) (22 June 2022) (Judgment)

Neutral citation: [2022] KEHC 3091 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT HOMA BAY**

CIVIL APPEAL 4 OF 2020

KW KIARIE, J

JUNE 22, 2022

BETWEEN

DAVID OCHIENG ONYANGO APPELLANT

AND

BELDINA AKUMU RESPONDENT

*(Being an Appeal from the Ruling and Order in Oyugis Principal
Magistrate's E.L.C No. 98 of 2018 by Hon. J.P. Nandi –Principal Magistrate)*

JUDGMENT

1. David Ochieng Onyango, the appellant herein was the plaintiff in Oyugis Principal Magistrate's PMELC No. 98 of 2018. He had sued the respondent and was seeking the following orders:
 - a) That the defendant, her agent and or employees be restrained by an order of permanent injunction from entering, cultivating, working on, committing waste to or holding onto possession of the suit land registration number East Karachuonyo/Kamser Seka/1507.
 - b) An order directing the defendant, his agents and or employees to vacate the suit land parcel number East Karachuonyo/Kamser Seka/1507 and forthwith desist from any interference with the plaintiff in the enjoyment and /or use of the said parcel of land.
 - c) General damages for trespass to property.
 - d) Costs and interest.
2. Clearly this is an appeal that was filed in the court without jurisdiction. On jurisdiction Justice Nyarangi (JA) in the case of *Owners of the Motor Vessel "Lillian S" vs. Caltex Oil (Kenya) Ltd* [1989] KLR 1 stated as follows:

I think that it is reasonably plain that a question of jurisdiction ought to be raised at the earliest opportunity and the court seized of the matter is then obliged to decide the issue



right away on the material before it. Jurisdiction is everything. Without it, a court has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law downs tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.

Since I have no jurisdiction I can proceed no further.

3. Consequently, the appeal is struck out with costs.

DELIVERED AND SIGNED AT HOMA BAY THIS 22ND DAY OF JUNE, 2022

KIARIE WAWERU KIARIE

JUDGE

