



**Onyango v Asiago (Environment & Land Case 9 of 2022)  
[2023] KEELC 18045 (KLR) (14 June 2023) (Ruling)**

Neutral citation: [2023] KEELC 18045 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND CASE 9 OF 2022  
GMA ONGONDO, J  
JUNE 14, 2023  
IN THE MATTER OF LAND PARCEL, KISUMU/KOGONY/5402  
AND  
IN THE MATTER OF SECTION 38 OF LIMITATION OF ACTIONS ACT CAP 22 LAWS OF  
KENYA  
AND IN THE MATTER OF ORDER 37 RULES 7(1) OF THE CIVIL PROCEDURE RULES  
BETWEEN  
JOHN ONYANGO ..... APPLICANT  
AND  
ORINDA ASIAGO ..... RESPONDENT**

**RULING**

1. The present ruling pertains to two applications namely:
  - a. A Notice of Motion dated July 19, 2022 by the applicant through C Obiero and Associates Advocates seeking the orders *infra*:
    - i. Moot
    - ii. Moot
    - iii. That after hearing of this application, a conservation order be issued prohibiting the respondents, their agents, employees or any persons acting through them from constructing, fencing, continuing with fencing, cutting vegetables, demolishing structures or doing anything that will compromise the interest of the applicant and the originating summons Number 09 of 2022 herein until substantive originating summons is heard and determined.



- iv. Costs be in the cause.
- b. A notice of motion dated September 20, 2022 by the intended interested Party through the firm of Odhiambo Ogutu and Company Advocates seeking the following orders:
  - i. Spent.
  - ii. The intended interested party be allowed to be enjoined in the Originating summons as an Interested Party.
  - iii. There be an adoption of survey already done on May 10, 2022 and/or a Re-survey of land parcels No C/Karachuonyo/3012 and C/Karachuonyo/3013 by a government surveyor to determine the correct demarcations of both parcels of land.
  - iv. That subject to Order (3) above, Parties be ordered to occupy their respective parcels of land in default eviction Order to issue.
  - v. Costs be provided for.
2. Today, Mr Obiero learned counsel for the applicant and Mr Wasonga Ouma learned counsel for the intended interested party, have agreed to abandon both applications.
3. In the upshot, both applications be and are hereby abandoned with no orders as to costs.

**DATED AND SIGNED AT HOMABAY THIS 14<sup>TH</sup> DAY OF JUNE 2023.**

**G M A ONG'ONDO**

**JUDGE**

**PRESENT**

**Otieno, learned counsel for the applicant**

**Wesonga Ouma, learned counsel for the interested parties.**

**Court Assistant, Okello and Mutiva.**

