



**Otula v Okombo (Environment & Land Case 21 of 2022)
[2023] KEELC 18093 (KLR) (12 June 2023) (Ruling)**

Neutral citation: [2023] KEELC 18093 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT & LAND CASE 21 OF 2022
GMA ONGONDO, J
JUNE 12, 2023
(FORMERLY MIGORI CIVIL APPLICATION NO 78 OF 2019)
IN THE MATTER OF LIMITATION OF ACTIONS ACT CHAPTER 22
IN THE MATTER OF SOUTH KARACHUONYO/KAMENYA/723
IN THE MATTER IF CIVIL PROCEDURE RULES 2010
IN THE MATTER OF ARTICLE 40 OF THE CONSTITUTION OF KENYA
IN THE MATTER OF A CLAIM FOR ADVERSE POSSESSION
PURSUANT TO SECTION 38 OF THE LIMITATIONS OF ACTIONS ACT**

BETWEEN

DAVID AKOKO OTULA PLAINTIFF

AND

JAMES NDEGE OKOMBO RESPONDENT

RULING

1. This ruling is in respect to two applications:
 - a) The plaintiff/applicant's notice of motion dated 26th November 2020 seeking orders that:
 - i) Spent.
 - ii) The Honourable Court be pleased to CITE the Respondent, James Ndege Okombo for a Notice to Show Cause why he should not be committed to Civil jail for six (6) months for the wanton breach of status Quo Court Orders issued on 4/2/2020.
 - iii) The Honourable Court be pleased to grant such further Orders to uphold its integrity and the Rule of Law.



- iv) Costs be provided.
- b) The defendant/applicant's Notice of Motion dated 16th December 2021 seeking the orders infra:
 - i) The Honourable Court be pleased to issue a Permanent Order of Injunction thereby restraining the plaintiff/respondent, his agents, servants, employees and/or anybody deriving authority from him from further interfering with the boundary of Land Parcel No. South Karachuonyo/Kamenya/723.
 - ii) The Honourable Court be pleased to issue an order directing the Land Registrar and Surveyor for Rachuonyo subcounties to restore the boundary to land parcel No. South Karachuonyo/Kamenya/723 which has been defaced by the Plaintiff/Respondent.
 - iii) The costs of restoring the boundary be paid by the Plaintiff/Respondent.
 - iv) The Costs of application be provided for in favour of the defendant/applicant.
- 2. The applicant/plaintiff's counsel, Mr. Ongoso and the applicant/defendant in person have agreed to abandon both applications.
- 3. So, the said both applications are hereby marked as abandoned with no orders as to costs.
- 4. The suit is fixed for directions on 27th July 2023.
- 5. It is so ordered.

DELIVERED, DATED AND SIGNED AT HOMABAY THIS 12TH DAY OF JUNE 2023.

G.M.A ONG'ONDO

JUDGE

PRESENT.

1. Mr. Ongoso learned counsel for the applicant/plaintiff.
2. The applicant/defendant present in person.
3. Court Assistant, Okello.

