



**Ondiek v Orangi (Environmental and Land Originating Summons
E049 of 2021) [2025] KEELC 1407 (KLR) (18 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1407 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS E049 OF 2021**

M SILA, J

MARCH 18, 2025

BETWEEN

GIDEON OKUMU ONDIEK PLAINTIFF

AND

JOASH ODHIAMBO ORANGI DEFENDANT

RULING

1. There are two applications before me. The first is that dated 27 September 2024 filed by the successful plaintiff. What he seeks is an order to have the OCS, Migori Police Station, provide security to the County Surveyor so that the County Surveyor can carve out 8 ½ acres out of the land parcel Suna East/Wasweta I/20368 in favour of the plaintiff in accordance with the decree herein.
2. The second application is that dated 5 November 2024 filed by the unsuccessful defendant. The substantive prayer in that application is for stay of execution of the decree pending hearing and determination of an appeal to the Court of Appeal
3. I gave direction that the two applications be heard together and I have considered them. I have also read the judgment delivered herein which is a judgment of Kullow J, delivered on 29 November 2023.
4. The claim that was lodged before court by the plaintiff was one of adverse possession. The plaintiff contended to be entitled to land measuring 8 ½ acres by way of adverse possession out of the land parcel Suna East/Wasweta I/20368. The judgment was in his favour. Inter alia the good judge ordered all titles emanating from subdivision of the land parcel Suna East/Wasweta I/20368 be cancelled and the District Land Registrar was to facilitate issuance of title to the plaintiff. I have seen that the defendant was aggrieved by the judgment and filed a Notice of Appeal. In my view, I think it is only fair that execution of the decree be stayed until the appeal is disposed of. I see no prejudice to the plaintiff if I issue an order of status quo.



5. I will therefore allow the application dated 5 November 2024 and issue an order of stay pending appeal. I further order that the current status quo maintaining with regard to possession and all titles that are subdivisions of the parcel No. Suna East/Wasweta I/20368 be maintained. I issue an order of restriction inhibiting the registration of any disposition in the register of all titles which are subdivisions of the parcel No. Suna East/Wasweta I/20368 until the appeal is determined or until any other further orders of the court. Possession regarding all parcels of land emanating from subdivision of the land parcel No. Suna East/Wasweta I/20368 be as it was at the time that the judgment was delivered.
6. Having allowed the application for stay pending appeal, I am afraid I cannot allow the application dated 27 September 2024 for execution of the judgment. That application is dismissed.
7. The last order is costs. The application dated 27 September 2024 is dismissed with no orders as to costs. The costs of the application dated 5 November 2024 will abide the outcome of the appeal.
8. Orders accordingly.

DATED AND DELIVERED THIS 18 DAY OF MARCH 2025

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT

MIGORI

Delivered in the presence of :

Mr. Jura for the plaintiff

Ms. Okota for the defendant

Court Assistant – Michael Oyuko

