



Migoya (Suing as the administrator of the Estate of Labisilaus Mogoya G Odero and on her own behalf) v Opiyo & 3 others (Environment & Land Case E003 of 2023) [2023] KEELC 21071 (KLR) (26 October 2023) (Ruling)

Neutral citation: [2023] KEELC 21071 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT & LAND CASE E003 OF 2023
GMA ONGONDO, J
OCTOBER 26, 2023**

BETWEEN

MILCA ATIENO MIGOYA (SUING AS THE ADMINISTRATOR OF THE ESTATE OF LABISILAUS MOGOYA G ODERO AND ON HER OWN BEHALF) PLAINTIFF

AND

**DANIEL OCHIENG OPIYO 1ST DEFENDANT
JARED ADHIAMBO AWITI 2ND DEFENDANT
THE LAND REGISTRAR, HOMABAY COUNTY 3RD DEFENDANT
THE HONOURABLE ATTORNEY GENERAL 4TH DEFENDANT**

RULING

1. The plaintiff, Mika Atieno Migoya through Ms. Kijana and Company Advocates sued the four (4) defendants by way of a plaint dated 15th September 2023 for, inter, alia, an order of eviction against the 1st and 2nd defendant, their agents and/or servants from LR Nos. Kanyada/Kanyango/Kalanya/8261 and 8262 and any portions thereof all measuring approximately 0.7 Ha in area.
2. In a statement of defence dated 29th September 2023, the 2nd defendant through Nelson Otieno and Associates Advocates denied the plaintiff's claim and prays that the suit be dismissed with costs.
3. By the character of the claim including the size of the property in dispute as well as bearing in mind sections 11 and 18(1) (a) of the *Civil Procedure Act* chapter 21 Laws of Kenya, this claim falls within the jurisdiction of the Chief Magistrate's Court, HomaBay in the first instance, Apparently, it was filed in this court by mistake.



4. In the foregone, this suit be and is hereby transferred to HomaBay Chief Magistrate's court for hearing and determination.
5. This file be placed before the Chief magistrate's court at HomaBay for directions on 1st November 2023.
6. It is so ordered.

DATED, DELIVERED AND SIGNED AT HOMABAY THIS 26TH DAY OF OCTOBER 2023.

G.M.A ONG'ONDO

JUDGE

