



Jecton alias Jennifer Odoyo Olando & 3 others v Bugo (Environment and Land Appeal E010 of 2021) [2023] KEELC 20921 (KLR) (23 October 2023) (Ruling)

Neutral citation: [2023] KEELC 20921 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND APPEAL E010 OF 2021
GMA ONGONDO, J
OCTOBER 23, 2023**

BETWEEN

**JANE JECTON AIAS JENNIFER ODOYO OLANDO 1ST APPELLANT
MAURICE ODOYO 2ND APPELLANT
WYCLIFFE ODOYO 3RD APPELLANT
HASSAN ODOYO 4TH APPELLANT**

AND

NIXON OTIENO BUGO RESPONDENT

(Being an appeal against the Judgment of the Principal Magistrate's court at Ndhiwa delivered by Hon. Mary A. Ochieng' on the 28th day of September 2021 in Environment and Land Court Suit Number 22 of 2020)

RULING

1. I have duly considered an application by Ms. B. Ochieng holding brief for Obach learned counsel for the appellants to the effect that Mr. Willis Otieno be barred from oral submission for the respondent. That the said counsel is not on record herein.
2. Further, I have heard Mr. Willis Otieno Advocate who has told the court that he is appearing alongside Ms. L.K Obwanda learned counsel for the respondent. That it was not necessary for him to file another notice of appointment of advocate. That the respondent cannot be prevented from presenting oral submission for the respondent who is entitled to counsel of his own choice. That if he is presented from the respondent's submissions, it would be prejudicial to the respondent.
3. Ms. Obwanda for the respondent has stated that she is appearing alongside Mr. Willis Otieno for the respondent. That she has always received instructions from the said counsel who is also representing the respondent.



4. Upon hearing counsel B. Ochieng, L.K Obwanda and Willis Otieno for their respective clients who are parties in this appeal and in view of sections 3 and 19 of the *Environment and Land Court Act* 2015 (2011), section 1A, 1B, 3 and 3A of the *Civil Procedure Act* Chapter 21 Laws of Kenya as well as the Court of Appeal decision in James Kanyiita Nderitu and another -versus Marios Philotas Ghikas and another (2016)eKLR and Articles 25(c), 48 and 50(1) of *the Constitution* of Kenya 2010, I find the application of the appellants' Advocate devoid of merit.
5. So, the application is hereby disallowed.
6. The three (3) counsel are granted five (5) minutes each to orally submit in this appeal.
7. It is so ordered.

DELIVERED AND DATED AT HOMABAY THIS 23RD DAY OF OCTOBER 2023.

G.M.A ONG'ONDO

JUDGE

PRESENT

1. Mr. L.K Obwanda learned counsel for the respondent alongside Mr. Willis Otieno learned counsel for Respondent.
2. Ms. B. Ochieng holding brief for Obach learned counsel for appellants.

