



**Obiero v Ogola (Environment and Land Appeal 18 of 2022)
[2023] KEELC 20742 (KLR) (17 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20742 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND APPEAL 18 OF 2022
GMA ONGONDO, J
OCTOBER 17, 2023
(FORMERLY MIGORI ELC APPEAL NUMBER 29 OF 2019)**

BETWEEN

JOSEPH OBIERO APPELLANT

AND

BEATRICE OGOLA RESPONDENT

RULING

1. The respondent, Beatrice Ogola through her counsel, Ms. B. Ochieng instructed by the firm of Obach and partners Advocates has sought leave to comply with the orders of this court given on April 26, 2023 herein.
2. By the said orders, the court directed that the Notice of Motion application dated March 15, 2023 be heard by way of written submission and the parties to file exchange submission within 42 days from that date.
3. So, the respondent's counsel has sought time, two (2) to serve the respondent's replying affidavit sworn on April 12, 2023 and filed in court on April 19, 2023.
4. Mr. Obiero learned counsel for the applicant has opposed the application and urged the court to dismiss the same on grounds, inter alia, that there is no response to the notice of motion application and that the applicant has filed and served submissions thereof.
5. I have duly considered the respondent's application and the response thereto.
6. I bear in mind that the replying affidavit was duly filed and the timelines sought to serve it alongside the submissions of the respondent.



7. In the spirit of Articles 48, 25 (c) and 50 (i) of the *Constitution of Kenya 2010*, sections 3 and 19 of the *ELC Act, 2015 (2011)* and the decision in *James Kenyiita Nderitu and another versus Marios Philotas Gbikas and another* (2016) eKLR, I find merit in the respondent's application.
8. Accordingly, the said application is hereby allowed in terms infra:
 - a. The respondent's counsel is granted time to file and serve replying affidavit duly filed on April 19, 2023 herein within the next two (2) days from this date.
 - b. The appellant's counsel to file and serve further affidavit and supplementary submissions within 14 days from date of service of the replying affidavit and respondent's submission.
 - c. Mention on October 7, 2023 to confirm compliance and for directions.
9. Ordered accordingly.

DELIVERED AND DATED AT HOMABAY THIS 17TH DAY OF OCTOBER 2023

G.M.A ONG'ONDO

JUDGE

PRESENT.

1. Mr. Obiero learned counsel for appellant.
2. Ms. Otieno learned counsel for respondent.
3. Court Assistants, Luanga and Fiona.

