



**Onyango v Lessonet & another (Environment & Land Case  
E002 of 2020) [2025] KEELC 1230 (KLR) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1230 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAKURU  
ENVIRONMENT & LAND CASE E002 OF 2020  
A OMBWAYO, J  
MARCH 13, 2025**

**BETWEEN**

**JOHN ORIRI ONYANGO ..... PLAINTIFF**

**AND**

**ALBERT KIPKOSGEI LESSONET ..... 1<sup>ST</sup> DEFENDANT**

**BEKAPI LIMITED ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. Albert Kipkosgei Lessonet hereinafter referred to as the applicant applies that the Honorable Court be pleased to grant leave to the applicant to file and immediately serve upon the on the Respondent a further list of documents to be marked and/or produced as exhibits in support of the applicant's case and that the list of documents annexed/filed herewith be deemed to be properly filed and properly on record. This matter was scheduled for hearing on 13<sup>th</sup> February 2025 and the applicant desires to use the documents contained in the intended further list of documents during the hearing. Costs of this Application be in the cause.
2. The application is based on grounds that the documents contained in the intended further list of documents have just recently come into the Applicant's possession and the same having been supplied to the Applicant's by the office of the Director of Public Prosecutions in a criminal matter touching on the properties the subject matter of this case. The documents were not in the Applicant's possession or within his reach as at the time he was served with the pleadings related to this matter and when filing a response thereto; hence he could not have filed them at any other earlier time.
3. Many of the documents originate and/or emanate from the Respondent herein who ought to be already aware of the contents thereof hence he will not suffer any prejudice if the Applicant is allowed to file them at this stage.



4. The said documents are extremely useful and will better inform the Court and help in the proper adjudication of the matters in dispute herein for a truthful, just and fair determination for the sake of a lasting peace between the parties. The documents sought to be introduced by the Applicant at this stage will help both parties in advancing their respective cases before the Court.
5. It is in the wider interest of justice that the Applicant be not locked out by Court from presenting his case in full supported by exhibits he believes to be critical for the advancement of his position in the matter.
6. The Application has been filed expeditiously upon receipt of the documents supplied by the state in a related Criminal case pending before the Nakuru Chief Magistrate's Court in which the Applicant is an accused, and, being documents already known to the Respondent, who is listed in the same Criminal case as a state witness, the Respondent ought not to have any problem at all with their use or production in this matter at whichever stage. In any event, the Respondent will have an ample time and opportunity to prepare and to cross examine any witness availed or summoned based on the contents of the documents.
7. In the circumstances it is only fair, just expedient and in keeping with the tenets and interest of justice that the Honorable Court do grant the prayers sought in the instant application made in utmost good faith. The supporting affidavit reiterates the grounds of the application.
8. The application is opposed by the plaintiff vide replying affidavit sworn on 20<sup>th</sup> February 2025. The gist of the replying affidavit is that the respondents in this matter is guilty of laches in responding to pleadings in this matter as he has failed to enter appearance and defence in time.
9. Pleadings closed on 19<sup>th</sup> July 2023 and that the court has not been given any convincing reasons why the documents should be filed late. The applicant has not informed the court why the document could not be availed in 2020.
10. I have considered the application and do find that the documents sought to be produced if properly produced will assist the Court to make an informed decision. The plaintiff appear to doubt the authenticity of the documents, however, this Court observes that the document being public documents, the defendant shall be required to produce certified copies. The plaintiff has not testified in this case and therefore suffers no prejudice in the filing of a supplementary list of documents. Application is allowed. The proper list of documents to be filed and served within 10 days. The plaintiff at liberty to file a supplementary list of documents within 10 days. Hearing on the suit on June 30, 2025. Costs in the cause.

**RULING DATED, SIGNED AND DELIVERED ELECTRONICALLY THIS 13<sup>TH</sup> DAY OF MARCH 2025**

**A. O. OMBWAYO**

**JUDGE**

