



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY

ELCC NO. 31 OF 2021

WERE ODHUL.....PLAINTIFF

VERSUS

SHEM OWUOR OTHINA.....DEFENDANT

RULING

1. I have heard the plaintiff in person and the defendant's counsel, Mr. Oyoo, in respect of proposed visit to the disputed parcel of land, LR No. Kanyamwa/K/K/Kadwet/1469 (the suit land herein) to confirm compliance with orders of **8th March 2013** granted by this court. That there are activities going on at the suit land contrary to the said orders.
2. The defendant's counsel has informed this court that the defendant and himself were made aware of the orders during the last hearing of this suit. That he undertakes to ensure that status quo over the suit land is maintained.
3. I take into account the ruling of **8th March 2013** made in the presence of Were Odhul (PW1) who is the plaintiff and in the absence of the defendant. The orders therein are very clear. The nature of suit is noted, too.
4. In the result, I find the prayer by the plaintiff (PW1) not merited in the obtaining scenario. I disallow the same.
5. For clarity, I order and direct thus:
 - a) The parties to comply with this court's orders of **8th March 2013** which I hereby restate.
 - b) The orders referred to at paragraph (a) herein above are meant to preserve the suit land as held in the case of **Hutchings Biermer Limited –versus- Barclays Bank of Kenya Limited and 2 others (2006) eKLR** hence, the parties to maintain the status quo over the suit land in line with the previous court orders, pending the hearing and determination of this suit.
6. It is so ordered.

DATED AND DELIVERED AT HOMA BAY THIS 25TH JANUARY 2022

G.M.A ONG'ONDO

JUDGE

Present;

- a) Mr. Oyoo learned counsel for the defendant.
- b) Plaintiff, present in person.
- c) Okello, court assistant.

G.M.A ONG'ONDO

JUDGE