



REPUBLIC OF KENYA



Obar v HomaBay County Land Surveyor & 3 others (Environment and Land Judicial Review Case E002 of 2022) [2022] KEELC 2427 (KLR) (27 April 2022) (Ruling)

Neutral citation: [2022] KEELC 2427 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE E002 OF 2022**

GMA ONGONDO, J

APRIL 27, 2022

BETWEEN

CATHERINE ACHIENG OBAR PLAINTIFF

AND

HOMABAY COUNTY LAND SURVEYOR 1ST DEFENDANT

HOMABAY COUNTY LAND REGISTRAR & 2 OTHERS 2ND DEFENDANT

RULING

1. On the March 18, 2022, the Applicant, Catherine Achieng Obar, through M/s Nyauke and Advocates filed an Ex-parte chamber summons dated March 17, 2022 pursuant to, inter-alia, orders 3 Rule (1) (2) and 4 of the *Civil Procedure Rules*, 2010 (the application herein). She is seeking the orders infra;
 - a. Spent
 - b. Spent
 - c. The grant of leave herein to operate as stay any intended action by the any of the respondents with regard to opening of an access road on land parcel number Suba/Kaksingri West "A"/4091 (the suit property herein)
 - d. Costs of land incidental to the application be provided for.
2. The matter is for mention for today. The parties were notified of this date by the Deputy Registrar of this court via email on April 21, 2022 at 3.30 P.M.
3. The applicant's counsel, Ms Odera has sought to withdraw the application with no orders as to costs. She has informed the court thus:

"The instant dispute has been settled...."



4. The respondents are absent yet they were made aware of this date via email as disclosed in paragraph 2 hereinabove: see *Ogada v Mollin* (2009) KLR 620.
5. The application for the withdrawal of the application is made in the best ends of justice as provided for under Article 159 (2) (b) of *the Constitution* of Kenya, 2010, sections 3 and 19 of the *Environment and Land Court Act*, 2015 (2011) and Order 42 Rule 32 of the *Civil Procedure Rules*, 2010. Thus, the application is meritorious.
6. Accordingly, the application by way of chamber summons dated March 17, 2022, filed herein on March 12, 2022, is hereby withdrawn with no orders as to costs.
7. It is so ordered.

DATED, DELIVERED AND SIGNED AT HOMA-BAY THIS 27TH DAY OF APRIL 2022.

G.M. A ONG'ONDO

JUDGE

Present

Ms. Odera, learned counsel for applicant

Court Assistant, Terrence

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