



**Adongo v Odhiambo & 3 others (Environment & Land Case
E6 of 2022) [2022] KEELC 2559 (KLR) (15 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 2559 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENT & LAND CASE E6 OF 2022**

**A OMBWAYO, J
JULY 15, 2022**

BETWEEN

ALBERT ODHIAMBO ADONGO APPLICANT

AND

NDINYA ANDIEGO ODHIAMBO 1ST RESPONDENT

**CHAIRMAN B.O. M AIC OLAGO ALUOCH GIRLS SECONDARY
SCHOOL 2ND RESPONDENT**

**PRINCIPAL SECRETARY TREASURY SUED AS THE TRUSTEE OF AIC
OLAGO ALUOCH GIRLS SECONDARY SCHOOL 3RD RESPONDENT**

ATTORNEY GENERAL 4TH RESPONDENT

RULING

1. Albert Odhiambo Adoyo has come to court against Ndinya Andiego Odhiambo and the Chairman B.O.M AIC Olago Aluoch Girls Secondary School as the P.S Treasury and the Attorney General claiming adverse possession in respect of Kisumu/Nyahera/2260. He prays that pending the hearing and determination of this suit, this Honourable court be pleased to grant an order of interim injunction restraining the Respondents, their servants, agents, workers, proxies, representatives and/or any other person assigned or with their authority from evicting the Applicant and his family from Kisumu/Nyahera/2260 and interfering with land parcels No. Kisumu/Nyahera/2260 that the Applicant has lived on peacefully and uninterrupted for over 12 years. This Honourable Court be pleased to grant an order to the effect that the status quo in regards to land parcel No. Kisumu/Nyahera/2260 is maintained pending the hearing and determination of this application and the suit. Costs of this application be provided.



2. The plaintiff claims that his late mother purchased the suit property in 1988 from Achunge Andiego. The parcel of land was initially Kisumu/nyahera/1116. It was subdivided into 3 thus Kisumu/Nyahera/2258, 2259 and 2260. The Plaintiff was left to reside in Kisumu/Nyahera/2260 to date.
3. I have considered the pleadings, affidavits on record and submissions on record and do find that the plaintiff has established a prima facie case with a likelihood of success as he has been residing on the land since 1988 more than 20 years ago hence he has an arguable interest in the parcel of land.
4. On the issue of irreparable damage that cannot be computed in damages, I do find that if the plaintiff is evicted, he will suffer irreparably as it will affect his entire family as he will be forced to vacate his home.
5. On balance of convenience I do find that the plaintiff will be more inconvenienced if the injunction is not granted as e will be forced out of his home. The upshot of this is that the application is allowed. I do grant orders:
 - a) Pending the hearing and determination of this suit, there be, and is hereby granted an order of interim injunction restraining the Respondents, their servants, agents, workers, proxies, representatives and/or any other person assigned or with their authority from evicting the Applicant and his family from Kisumu/Nyahera/2260 and interfering with land parcels No. Kisumu/Nyahera/2260 that the Applicant has lived on peacefully and uninterrupted for over 12 years. Costs of this application be in the cause.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 15TH DAY OF JULY 2022

ANTONY OMBWAYO

JUDGE

This Ruling has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic and in the light of the directions issued by his Lordship, the Chief Justice on 15th March 2020.

