



**Adorn v Ondigo & 2 others (Environment & Land Case
E32 of 2021) [2022] KEELC 2630 (KLR) (13 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 2630 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENT & LAND CASE E32 OF 2021
A OMBWAYO, J
JULY 13, 2022
IN THE MATTER OF THE REGISTERED LAND ACT CAP 300
(REPEALED) (O.S)
AND
IN THE MATTER OF LAND REGISTRATION ACT NO. 3 OF
2021
AND
IN THE MATTER OF SECTION 7, 17 AND 38 OF THE
LIMITATIONS OF ACTIONS ACT CAP 22 LOK
AND
IN THE MATTER OF SECTION 10 (1 AND 2) OF THE HIGH
JCOURT (ORGANIZATION AND ADMINISTRATION) ACT OF
2015
AND
IN THE MATTER OF ORDER 37 RULE 7 OF THE CIVIL
PROCEDURE RULES 2010
AND
IN THE MATTER OF LAND PARCELS KISUMU/KADONGO/4317
AND KISUMU/KADONGO/508

BETWEEN
SAMSON OTIENO ADORN APPLICANT

AND



PETER ONDIGO 1ST RESPONDENT
BERNARD OKULO 2ND RESPONDENT
PATRICIA TUJU 3RD RESPONDENT

RULING

1. Samson Otieno Adorn (hereinafter referred to as the applicant) has come to court against Peter Ondigo, Bernard Okulo and Patricia Tuju praying that This Honourable court do cite the 2nd and 3rd Respondents for contempt of court orders issued by this Honourable Court on the September 27, 2021.
2. Moreover, that the 2nd and 3rd Respondents be committed to civil jail for contempt of court, be fined and have their assets confiscated or any other punishment permitted by law in accordance with Rule 81.9 of the English *Civil Procedure Rules* of 1998.
3. This Honourable Court be pleased to issue any other orders for contempt of court as it may deem fit. Costs of this Application be borne by the Respondents. The application is based on grounds that:
 - a. This Honourable Court issued Orders on the September 27, 2021 ordering for maintenance of status quo pending the hearing and determination of the suit.
 - b. The Respondents have disobeyed the said court orders issued by this Honourable Court on the September 27, 2021.
 - c. The Respondents have gone ahead and trespassed on the said parcel of land being Kisumu/kadongo 4317 and Kisumu/kadongo/508 and began cultivating on them
 - d. Unless the matter is heard and orders issued an insurmountable amount of prejudice shall be occasioned on the plaintiff herein.
4. The application is supported by the affidavit of Samson Otieno Adorn.
5. I have perused the affidavit of service of Bonface Ondiegi the process server and do find that the same does not disclose how he was able to identify the alleged contemnors. He does not state how he knew the respondents and he does not explain who was able to pin-point the respondents to enable him serve. The applicant did not accompany him for purposes of identifying the respondents. Contempt applications being quasi-criminal in nature, service is very important. The upshot of the above is that I do direct that the respondents be re-served with the application. Costs in the cause.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 13th DAY OF JULY 2022

ANTONY OMBWAYO

JUDGE

