



REPUBLIC OF KENYA



KENYA LAW
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**Oluoch v Achiego (Environment and Land Appeal E018 of 2023)
[2025] KEELC 177 (KLR) (24 January 2025) (Ruling)**

Neutral citation: [2025] KEELC 177 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT SIAYA
ENVIRONMENT AND LAND APPEAL E018 OF 2023
AY KOROSS, J
JANUARY 24, 2025**

BETWEEN

FREDRICK OLUOCH APPELLANT

AND

WILKISTER ATIENO ACHIEGO RESPONDENT

*(Being an appeal from the judgment of the PM Hon. Mr. J.P.Nandi
delivered on 9/11/2023 in Bondo ELC Case No. 18 of 2018)*

RULING

1. In a ruling rendered by this court on 17/10/2024 which found the record of appeal filed by the appellant dated 10/03/2023 as incompetent for failure to avail the lower court decree, it struck it out.
2. In striking out the record of appeal, the court issued the following consequential orders: -
 - a. That the record of appeal is hereby struck out with costs to the respondent of ksh.20,000/=.
 - b. That the appellant shall file a complete record of appeal and pay the respondent's costs within 14 days hereof and in default, the entire appeal shall stand dismissed with costs to the respondent.
 - c. Mention for further directions on 4/11/2024.
3. When the matter came before me on the scheduled mention date, Mr. Gichabe, counsel for the appellant indicated to the court that the appellant had complied with the court orders.
4. In response, Mr Ogotu, counsel for the respondent, submitted the decree dated 9/11/2023 which formed part of the newly filed record of appeal lacked a court seal. Counsel submitted that it appeared to be a forgery.



5. He also stated that the sum of ksh.20,000/=, which the court had earlier ordered, had been settled.
6. On hearing counsels, this court directed Mr. Gichabe to avail a copy of the court receipt as proof the alleged decree had been paid for but counsel sought more time.
7. Upon hearing Mr. Gichabe with the court expressing its grave concerns over the alleged decree that did not appear genuine, the court directed the Deputy Registrar (DR) to confer with Bondo Law Courts, the station that allegedly issued the decree. The court issued a further mention date of 11/11/2024.
8. By a letter dated 7/11/2024, Bondo Law Courts through its Head of Station stated verbatim in part: -
 - a. Decree was signed on 26/10/2024 which was a Saturday, courts were closed.
 - b. Font size and type are different.
 - c. Provision for signature and date are different
 - d. Our stamp contains “Magistrate Bondo Law courts” at the bottom as opposed to the questionable one which has it at the top
 - e. The questioned one has a typo error on the words “Magistrate” and “court”
 - f. “Certified true copy of the original” on (sic) in our genuine stamp appears at the top whereas on the questioned one has it as the bottom
 - g. The fake one has dotted lines in the middle our genuine one does notOur naked eye compared the signatures on both the questioned and genuine document and found the questioned to have a questionable signature.”
9. The contents of this letter were read out on 11/11/2024 to both Mr. Ogutu and Mr. Liko who was then acting for the appellant. It also allowed them to make their oral submissions on the contents therein.
10. Mr. Liko submitted that since the orders of 17/10/2024 were self-executing, therefore, the appeal automatically stood dismissed. As to the purported decree, counsel stated he had yet to establish the circumstances in which it was issued but submitted he would get to the bottom of the issue.
11. Mr. Ogutu submitted the decree had embarrassed the court and it was incumbent upon Mr. Liko to pursue the culprit and concurred with Mr. Liko that the appeal stood dismissed.
12. Both counsels have appeared before this court on other matters and by their conduct, I do not doubt Mr. Liko’s assertions that he will sincerely seek to establish how the alleged forgery transpired.
13. Thus, I concur with both counsels that the ruling of 17/10/2024 was self-executing and since no complete record of appeal has been filed by the appellant despite court directions, I find the appeal automatically stood dismissed as of 31/10/2024 with costs to the respondent.
14. Mr. Liko did submit he would seek to unravel the forgery. Fake court orders and decrees for that matter bring the legal profession and the court to disrepute. Accordingly, it is paramount for criminal investigations to be conducted and the perpetrator charged in court for his or her alleged criminal offence.
15. Ultimately, I hereby issue the following final orders: -
 - a. That the appeal is hereby dismissed with costs to the respondent.



- b. The Siaya County Director of Criminal Investigations is required to investigate the circumstances leading to the issuance of the alleged decree dated 9/11/2023 and pursue the necessary legal action.
- c. The Siaya County Director of Criminal Investigations is to file a report before this court within 60 days hereof confirming the status of the criminal investigations.
- d. That this court order shall be served within 7 days hereof upon the Siaya County Director of Criminal Investigations by the appellant's law firm on record Ms. Liko & Anam Advocates and a return of service to be filed.
- e. Mention to confirm the filing of the report by the Siaya County Director of Criminal Investigations on 24/03/2025.

Orders accordingly.

DELIVERED AND DATED AT SIAYA THIS 24TH DAY OF JANUARY 2025

HON. A. Y. KOROSS

JUDGE

24/1/2025

Ruling delivered virtually through Microsoft Teams Video Conferencing Platform in the Presence of:

Mr. Liko for the appellant

Mr. Lawi Ogutu for the respondent

Court assistant: Ishmael Orwa

