



**Mwok & another (Suing as executors and administrators of the Estate of Paul Naboth Mwok-Handa - Deceased) v Arum Also known as Hallington (Environmental and Land Originating Summons 2 of 2023) [2024] KEELC 535 (KLR) (8 February 2024) (Ruling)**

Neutral citation: [2024] KEELC 535 (KLR)

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT SIAYA**  
**ENVIROMENTAL AND LAND ORIGINATING SUMMONS 2 OF 2023**  
**AY KOROSS, J**  
**FEBRUARY 8, 2024**

**BETWEEN**

**JOYCE ATIENO MWOK ..... 1<sup>ST</sup> APPLICANT**

**CATHERINE GRACE ALOO ..... 2<sup>ND</sup> APPLICANT**

**SUING AS EXECUTORS AND ADMINISTRATORS OF THE ESTATE OF PAUL NABOTH MWOK-HANDA - DECEASED**

**AND**

**HILLINGTON ARUM ALSO KNOWN AS HALLINGTON ..... RESPONDENT**

**RULING**

1. After directing parties to canvass the notice of motion dated 7/7/2023 by written submissions, this court now finds itself in the unfortunate position in which it has to deliver a ruling on further directions instead of a substantive ruling.
2. The turn of events has been occasioned by several reasons and most importantly, there appears to be a notice of motion dated 8/07/2023 that apparently should be the subject for determination and not the one dated 7/07/2023. The subsisting interim orders that were issued by my brother Okongo J in Kisumu ELCOS E001/2023 before the original file was eventually transferred to this court is in respect of the notice of motion dated 8/07/2023.
3. From the court record, this particular notice of motion is missing and the only document in the court record dated 8/07/2023 is the amended originating summons (OS).
4. It is not lost to this court that the respondent filed a replying affidavit deposed on 26/09/2023 in respect of this amended OS and not on the notice of motion. Similarly, the bulk of his submissions dated



4/10/2023 are on this amended OS and it is probable that the respondent is not privy of the motion dated 8/07/2023.

5. In the circumstances and bearing in mind that this court has to carry out substantive justice in rendering its decision, I find that it is imperative that the applicants' counsel do address this court on the notices of motion dated 7/7/2023 and 8/7/2023. Mention on 12/02/2024 for further directions.

It is so ordered.

**DELIVERED AND DATED AT SLAYA THIS 8TH DAY OF FEBRUARY 2024.**

**HON. A. Y. KOROSS**

**JUDGE**

**08/2/2024**

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

Mr. Akech for the applicants

N/A for the respondent

Court assistant: Ishmael Orwa

