



**Ogosi v Gworo (Environment and Land Case 5 of 2022)  
[2024] KEELC 5032 (KLR) (1 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5032 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT AND LAND CASE 5 OF 2022**

**GMA ONGONDO, J**

**JULY 1, 2024**

**BETWEEN**

**JOSEPH ONYANGO OGOSI ..... PLAINTIFF**

**AND**

**CORNEL AKACHA GWORO ..... DEFENDANT**

**RULING**

1. By a Notice of Motion application dated 17<sup>th</sup> May 2024, the plaintiff/applicant, Joseph Onyango Ogosi through S M Sagwe and Company Advocates, is seeking the orders that he be granted leave to the amend the plaint and include one Jacqueline Adhiambo Obegwe as the 2<sup>nd</sup> defendant in this suit and that the draft amended plaint be deemed properly filed upon payment of requisite court filing fee and costs of the application be in the cause.
2. The defendant/respondent was duly served as shown in the affidavit of service sworn on 25<sup>th</sup> June 2024 by Walter Juma Opiyo, a duly authorised court Process Server.
3. Be that as if may, the defendant/respondent failed to reply to the application.
4. It is trite law that before an adverse decision is made against a party in a case, that party must be given an opportunity to be heard; see *James Kanyिता Nderitu and another v Marios Philotas Ghikas and another* (2016) eKLR.
5. In the instant application, the defendant /respondent duly served failed to respond to the application.
6. This court is guided by Article 159 (2) (b) of the *Constitution* of Kenya, 2010 which provides;  
“Justice shall not be delayed”.
7. In the premises, the application is unchallenged and merited.



8. Wherefore, the application is hereby allowed in terms of orders 1, 2 and 3 sought therein and as stated in paragraph 1 hereinabove.

9. It is so ordered

**DATED AND DELIVERED AT HOMA BAY THIS 1ST DAY OF JULY 2024**

**G.M.A ONG'ONDO**

**JUDGE**

In the presence of;

a. Mr S M Sagwe learned counsel for the Plaintiff/Applicant

b. Luanga and Mutiva, Court Assistants

