



**Onyango v Oyier (Environmental and Land Originating Summons
E013 of 2024) [2024] KEELC 7298 (KLR) (4 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 7298 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E013 OF 2024
GMA ONGONDO, J
NOVEMBER 4, 2024**

BETWEEN

NASHON OYOO ONYANGO PLAINTIFF

AND

ELLY ODOYO OYIER DEFENDANT

RULING

1. By a Notice of motion dated 30th September 2024, the plaintiff/applicant, Nashon Oyoo Onyango through the firm of Cheboi Ouma and Company Advocates is seeking the orders which include; that this Honourable court do issue an order for the maintenance of status quo on Land Reference number Kanyada/Kotieno/Katuma B/1129 (The suit land herein) pending the hearing and determination of this suit.
2. The application is premised on the applicant's supporting affidavit and the grounds set out on it's face. In a nutshell, the applicant claims that he is running a shop on the part of the suit land from year to year since 1996. That the respondent transferred the suit land while the applicant was in possession of the suit land and the actions of the respondent may occasion harm to the applicant including his eviction from the suit land.
3. The respondent through Robert Ochieng and Company Advocates, opposed the application by way of a replying affidavit sworn on 22nd October 2024.
4. Besides, Mr Robert Ochieng learned counsel for the respondent has urged the court to dispose of the application by status quo order sought in the application to expedite justice in this matter.
5. Mr Ouma learned counsel for the applicant is in agreement with the respondent's counsel as regards the said order.
6. In the foregone, is the status quo order sought in the application meritorious?



7. I have considered the nature of the application and the suit generated by an originating summons dated 30th September 2024. The applicant is claiming ownership of the suit land by way of adverse possession.
8. It is trite law that status quo order is meant to preserve the property in question pending the outcome or termination of the case; see *Ogada-vs-Mollin* (2009) KLR 620.
9. This court is mandated under section 13 (7) (a) of the *Environment and Land Court Act* 2015 (2011) to grant interim preservation orders. No doubt, status quo order is envisaged thereunder.
10. It is common ground that parties through their respective counsel are for the determination of the application through status quo order in consonant with Article 159(2) (b) of *the Constitution* of Kenya 2010 which reads;
Justice shall not be delayed.’
11. It is therefore, the finding of this court that the application is firm and meritorious.
12. Thus, the application is hereby allowed in terms of status quo order over the suit land pending the hearing and determination of this suit. In particular, the respondent shall not sell or charge the suit land or evict the applicant from it pending the outcome of this suit.
13. Costs of the application be in the cause.
14. It is so ordered.

DATED AND DELIVERED AT HOMA BAY THIS 4TH NOVEMBER 2024.

GEORGE M A ONG’ONDO

JUDGE

PRESENT;

Mr. Ochieng R. learned counsel for the respondent.

Mr. Ouma learned counsel for the applicant.

Mr. T Luanga, court assistant.

