



**Okoth v Okelo; Achilles & 2 others (Interested Parties) (Environment & Land Case 33 of 2021) [2023] KEELC 496 (KLR) (8 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 496 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND CASE 33 OF 2021  
GMA ONGONDO, J  
FEBRUARY 8, 2023**

**BETWEEN**

**AGABATUS OGALO OKOTH ..... PLAINTIFF**

**AND**

**LAWRENCE MORTY OPIYO OKELO ..... DEFENDANT**

**AND**

**COLLINS OMONDI ACHILES ..... INTERESTED PARTY**

**JOSEPH OPIYO ..... INTERESTED PARTY**

**DISTRICT LAND REGISTRARE HOMA-BAY ..... INTERESTED PARTY**

**RULING**

1. Learned counsel for the plaintiff, learned counsel for the defendant and the 1<sup>st</sup> interested party have drawn the attention of this court to a draft consent dated January 26, 2023 and duly filed herein.
2. The consent reads:
  - a) That the defendant shall transfer a portion of land parcel known as LR No Kabuoch/K/K/Karita/755 measuring 2.9 Acres only without any additional claim to the plaintiff at the plaintiff's cost.
  - b) That the defendant shall within 7 days of recording this consent, execute all the necessary documents including transfer forms, consent forms, mutations and any other document and/or form required for successful and effective transfer of 2.9 acres of parcel of land parcel as LR No Kabuoch/K/K/Karita/755.
  - c) That the defendant shall within 7 days of recording of this consent, surrender to the plaintiff's Advocates copies of KRA pin certificate, national identification /document (ID), 3 coloured



passport size photos and original Titled Deed of land parcel LR No Kabuoch/K/K/Karita/755 which is the subject of transfer.

- d) That upon compliance with the terms of the consent at paragraphs 2 and 3, the plaintiff shall remove the restriction that was registered in the land parcel No Kabuoch/K/K/Karita/755 immediately.
  - e) That upon the removal of restriction referred to in paragraph 4 above, the interested parties shall be at liberty to transfer their own portions.
  - f) That should the defendant fail to comply with the above terms of the consent; the plaintiff will be at liberty proceed with the hearing from where it stopped.
3. The plaintiff, Agubatus Ogola Okoth and his counsel, V Migai as well as the defendant, Lawrence Morty Opiyo Okello and his counsel, Ms Ochieng instructed by the firm of H Obach and partners advocates as well as the 1<sup>st</sup> interested party, Collins Omondi Achilles in person, have affirmed the consent.
  4. In that regard, the consent in it's entirety is adopted accordingly
  5. The suit is fixed for February 27, 2023 to confirm compliance with the consent and for further directions.
  6. The 2<sup>nd</sup> and 3<sup>rd</sup> interested parties to be served by the plaintiff's counsel.
  7. It is so ordered.

**DELIVERED, DATED AND SIGNED AT HOMA-BAY THIS 8<sup>TH</sup> DAY OF FEBRUARY 2023.**

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

**JUDGE**

**Present:**

- 1. V Migai, learned counsel for the plaintiff.**
- 2. Ms Ochieng, learned counsel for the defendant**
- 3. 1<sup>st</sup> interested party, present in person.**
- 4. Okello, Court Assistant**

