



**AmitoOrako Evans Oduor t/a Joint Base Nava Enterprises Limited v Amito & another
(Environment and Land Appeal 47 of 2022) [2023] KEELC 15863 (KLR) (1 March 2023) (Ruling)**

Neutral citation: [2023] KEELC 15863 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND APPEAL 47 OF 2022
GMA ONGONDO, J
MARCH 1, 2023**

BETWEEN

**ORAKO EVANS ODUOR T/A JOINT BASE NAVA ENTERPRISES
LIMITED RESPONDENT**

AND

**ENRNEST BIN AMITO 1ST APPELLANT
JEOFRICK N. MUIDE T/A KIMU AUCTIONEERS 2ND APPELLANT**

RULING

1. This ruling is with regard to the respondent’s preliminary objection dated October 14, 2022 and the appellant’s application by way of Notice of Motion dated February 17, 2023.
2. Mr. Osewe, instructed by Quinter Adoyo and Company Advocates for the respondent has made the following application:

“I pray that the preliminary objection dated October 14, 2022 be marked as withdrawn with no orders as to costs. Further, Notice of Motion dated February 17, 2023 is not opposed. May we take directions as regards the appeal”
3. Aluoch Odera, learned counsel for the appellant has no objection to the application for withdrawal of the preliminary objection. She prays that the appellant’s application be allowed.
4. In the foregone, I order and direct that:
 - a. The respondent’s preliminary objection dated October 14, 2022 is hereby marked as withdrawn.



- b. The appellant's application dated February 17, 2023 is allowed in terms of prayer for stay of proceedings of Homa-Bay Chief Magistrate's Court suit No. 89 of 2022 pending hearing and determination of this appeal.
- c. Costs to abide the outcome of this appeal.

5. Ordered accordingly.

DELIVERED, DATED AND SIGNED AT HOMA-BAY THIS 1ST DAY OF MARCH 2023.

G.M.A ONG'ONDO

JUDGE

PRESENT

Aluoch Odera, learned Counsel for the appellant/1st applicant.

Mr. Osewe instructed by Quinter Adoyo learned Counsel for the respondent.

Court Assistant: Okello.

