



Achieng v Owuor; Ndong (Interested Party) (Environment and Land Appeal E014 of 2021) [2023] KEELC 17748 (KLR) (5 June 2023) (Judgment)

Neutral citation: [2023] KEELC 17748 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND APPEAL E014 OF 2021
GMA ONGONDO, J
JUNE 5, 2023**

BETWEEN

ELISHA OPIYO ACHIENG APPELLANT

AND

NELSON ATIENO OWUOR RESPONDENT

AND

JEREMIAH OBAR NDONG INTERESTED PARTY

(Being an appeal from the judgment of the Senior Principal Magistrate Court at Homa Bay, Hon. T.Obutu – SPM dated 16th day of June, 2021)

JUDGMENT

1. The appellant generated this appeal by way of memorandum of appeal dated November 29, 2022 based on twinned ground set out on the face of the same and noted herein.
2. A notice of withdrawal of the appeal dated May 17, 2023 and filed herein on May 19, 2023 reads:

“Take notice pursuant to Order 25 rule 2(1) of the Civil Procedure Rules, the appellant, Elisha Opiyo Achieng And Gs Okoth Advocate, the advocate for the respondent have by consent agreed to wholly discontinue the above pending appeal on the following terms:

 - a. The appellant, registered proprietor of Land Parcel No. Kanyada/ Kothidha/56 shall duly transfer to Jeremiah Eddy Obar Ndong the whole of the said land within the next sixty (60) days.
 - b. The respondent Jeremiah Eddy Obar Ndong shall pay all the prescribed charges and fees for completing the transfer.



- c. The respondent hereby agrees that due to the long duration that has elapsed he will pay more money as the price to be hereafter agreed upon between himself and the appellant.
 - d. The restriction registered following the order given by the court on the February 14, 2023 to be lifted at the time of registering the transfer to Jerry Eddy Obar Ndong.”
3. Today, the appellant in person and Ms P Odhiambo instructed by GS Okoth and Company Advocates for the respondent have affirmed the notice of withdrawal that the appeal be marked as discontinued with no orders as to costs.
 4. In the forgone, I applaud the parties for bringing this matter to an end in the spirit of Article 159(2) (b) and (c) of the [*Constitution of Kenya, 2010*](#). Therefore, the notice of withdrawal of this appeal is meritorious.
 5. Accordingly, this appeal is hereby marked as wholly discontinued with no orders as to costs.
 6. It is so ordered.

DATED AND DELIVERED AT HOMABAY THIS 5TH DAY OF JUNE 2023.

G.M.A ONG’ONDO

JUDGE

PRESENT

Appellant in person.

M.s P. Odhiambo, instructed by G.S Okoth learned counsel for the respondent.

Court Assistant, Okello.

