



**Yoya v Ochieng & 2 others (Environment & Land Case 46 of 2021)  
[2023] KEELC 20749 (KLR) (2 October 2023) (Ruling)**

Neutral citation: [2023] KEELC 20749 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND CASE 46 OF 2021  
GMA ONGONDO, J  
OCTOBER 2, 2023  
(FORMERLY MIGORI ELC NUMBER 03 OF 2019)**

**BETWEEN**

**DAVID OGINGA YOYA ..... PLAINTIFF**

**AND**

**ISHMAEL ODHIAMBO OCHIENG ..... 1<sup>ST</sup> DEFENDANT**

**KENNEDY OTIENO ODHIAMBO ..... 2<sup>ND</sup> DEFENDANT**

**SEVENTH DAY ADVENTIST CHURCH (EAST AFRICA)**

**LIMITED ..... 3<sup>RD</sup> DEFENDANT**

**RULING**

1. I have duly considered the entire application by the plaintiff's counsel Ms Oriche for an adjournment to enable the plaintiff file and serve documents and the objections raised thereto by the 1<sup>st</sup>, and 2<sup>nd</sup> defendants' counsel, Mr Bana and the 3<sup>rd</sup> defendant in person that there are no compelling reasons thereof, among others.
2. It is paramount to note thus:
  - a. The applicant's counsel did not seek leave to file and serve documents intended to be filed and served in this case.
  - b. Pleadings closed long time ago, by July 2019 herein.
  - c. Last adjournment was allowed herein on July 24, 2023.
  - d. This is an old matter crying for hearing and determination.
  - e. The defendants are ready for hearing of this suit.



- f. The plaintiff has other witnesses to testify today in this case.
3. So, to meet the ends of justice pursuant to article 159 (2) (b) of the Constitution of Kenya 2010 and section 3 of the Environment and Land Court Act, 2015, I find the plaintiff's application unmeritorious.
4. In the result the application is hereby disallowed.
5. It is so ordered.

**DATED AND DELIVERED AT HOMA BAY THIS 2<sup>ND</sup> DAY OF OCTOBER 2023.**

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

**JUDGE**

