



**Ogutu v Mulungi (Environmental and Land Originating Summons  
E001 of 2023) [2023] KEELC 21461 (KLR) (9 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21461 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS E001 OF 2023  
GMA ONGONDO, J  
NOVEMBER 9, 2023**

**BETWEEN**

**DANCAN OGUTU ..... PLAINTIFF**

**AND**

**LEOKADIA ATIENO MULUNGI ..... DEFENDANT**

**RULING**

1. By a Notice of Motion application dated October 19, 2023, the applicant/plaintiff, Dancan Ogutu through the firm of Kerario Marwa and Company Advocates sought the following orders:
  - a. Spent
  - b. That Mbita Principal Magistrate's Court ELC Case Number 015 of 2023 be stayed pending the hearing and determination of the HomaBay High Court ELC Case No. E001 of 2023(O.S)
  - c. Cost of this Application be in the cause.
2. In brief, the applicant laments that Mbita Principal Magistrate's Court, Environment and Land Case Number E015 of 2023 concerns the suit land herein, LR Kaksingri/Kagutu/Waregi/652 and same parties. That the value of suit land and exceeds the jurisdictional limits of Mbita Principal Magistrate's Court.
3. The application was duly served on the respondent/defendant as per the Affidavit of service sworn and filed herein on October 8, 2023.



4. Mr Achola instructed by Kerario Marwa and Company Advocates for the applicant/plaintiff has informed this court that:

“.....no response to the Notice of Motion. May the Notice of Motion be allowed accordingly.”

5. Clearly, the Application was duly served on the respondent/defendant who has not responded to the same. I thus, find the application unchallenged and merited bearing in mind section 6 of the *Civil Procedure Act* (Cap 21 Laws of Kenya).

6. So, the application is hereby allowed in terms of order of stay sought therein as stated in paragraph 1(b) hereinabove.

7. Costs of the application be in the cause.

**DELIVERED, DATED AND SIGNED AT HOMABAY THIS 9<sup>TH</sup> DAY OF NOVEMBER 2023.**

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

**JUDGE**

