



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY

ELC OS CASE NO 31 OF 2021

PETER OKOTH GUMO AND 14 OTHERSPLAINTIFFS/APPLICANTS

VERSUS

JOKODHUL GROUP ALIAS JOKODHUL RANCHING GROUP1ST RESPONDENT

JOKAETE GROUP ALIAS JOKAETE RANCHING GROUP.....2ND RESPONDENT

JULIUS OUMA JWAN3RD RESPONDENT

RULING

1. By a Notice of Motion dated 1st December 2021 and duly filed herein on 2nd December 2021, the applicants, Peter Okoth Gumo and 14 others through M/s S.O Odingo and company Advocates are seeking stay of execution of this court's ruling rendered on 27th October 2021, among other orders.
2. By the said ruling, the applicant's originating summons Ex-parte dated 14/12/2020 and filed in court and on 15th December 2020 together with Notice of Motion of even date, were dismissed with costs to the Respondents.
3. The Notice of Motion as pointed out at Paragraph 1 herein above is for inter-partes hearing today. The applicants' counsel who is aware of the same, is absent without any reason or at all.
4. Mr. G.S Okoth, learned Counsel for the respondents has informed the Court that the applicants' counsel who is aware of this date, filed no notice of change or appointment of advocate as prescribed. Counsel has prayed that the Notice of Motion be struck out with costs to the Respondents.
5. I have duly considered this matter in its entirety. The respondent's prayer is merited.
6. Indeed, the applicants' Counsel filed the Notice Motion dated 1st December 2021 without compliance with the mandatory prescribed procedure; **See Order 9 Rule 9 of the Civil Procedure Rules 2010.**
7. Moreover, the Notice of Motion is not in consonant with transparency and accountability principles as stipulated under Article **10 (2) of the Constitution of Kenya 2010.**
8. So, the Notice of Motion is not curable under **Article 159 (2) (d) of the Constitution of Kenya, 2010.**
9. Accordingly, the Notice of Motion dated 1st December 2021 is incompetent. I proceed to strike it out with costs to the respondents.

DATED AND DELIVERED AT HOMA BAY THIS 15TH DECEMBER, 2021

G.M.A ONG'ONDO

JUDGE

Present;

- a) Mr. G.S. Okoth learned counsel for the Respondent

b) 1st applicant , Present

c) Okello, court assistant

G.M.A ONG'ONDO

JUDGE