



**Orero & 5 others v Ombewa (Enviromental and Land Originating Summons 02 of 2024) [2025] KEELC 5103 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEELC 5103 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MIGORI  
ENVIROMENTAL AND LAND ORIGINATING SUMMONS 02 OF 2024  
FO NYAGAKA, J  
JUNE 12, 2025**

**BETWEEN**

**PIUS AKUMU ORERO ..... 1<sup>ST</sup> PLAINTIFF  
PHILIP OSEWE ORERO ..... 2<sup>ND</sup> PLAINTIFF  
LUKE OUMA ORERO ..... 3<sup>RD</sup> PLAINTIFF  
BENARD ONYANGO ORERO ..... 4<sup>TH</sup> PLAINTIFF  
PATRICK OTIEN AKUMU ..... 5<sup>TH</sup> PLAINTIFF  
NICANOR OWUOR AKUMU ..... 6<sup>TH</sup> PLAINTIFF**

**AND**

**JOSEPH AYO OMBEWA ..... DEFENDANT**

**RULING**

1. What is pending before this court is a Notice to Show Cause why this suit should not be dismissed which Notice is dated 03/02/2025. The Plaintiffs instituted this suit vide Originating Summons on 15/01/2024 and as the matter proceeded, the Defendants obtained orders for maintenance of status quo vide a ruling delivered on 18/07/2024. When the matter came up on 31/01/2025, the Notice to Show Cause was issued.
2. The 1<sup>st</sup> Plaintiff filed an Affidavit dated 03/03/2025 to Show Cause why this suit should not be dismissed. He deposed that the provisions of law on which the Notice to Show Cause is anchored does not provide for dismissal of a suit for want of prosecution. Further, that the matter has been actively prosecuted and the court gave directions on 12/11/2024 to the parties to file submissions on the Preliminary Objection. He stated that the matter was fixed for mention to confirm filing of submissions on 30/01/2025 when his advocate failed to attend due to inadvertence and failure to



diarize the date. He cited the provisions of Order 17, Rule 2 of the Civil Procedure Rules and urged the court find that the matter should not be dismissed.

### **Analysis & Disposition**

3. The power to dismiss a suit for want of prosecution is governed Order 17 of the Civil Procedure Rules. Order 17 Rule 2(1) of the Civil Procedure Rules provides as follows:

“In any suit in which no application has been made or step taken by either party for one year, the court may give notice in writing to the parties to show cause why the suit should not be dismissed, and if cause is not shown to its satisfaction, may dismiss the suit.”
4. The court issued a ruling on the Defendants’ Notice of Motion on 18/07/2024. That was the last time the suit was active before the court fixed the matter for the Notice to Show Cause. The matter then came up for directions on 12/11/2024 when the court gave directions on the Preliminary Objection dated 25/01/2024 which was then set for further directions on 30/01/2025. The Respondents thereafter withdrew the Preliminary Objection and the Plaintiff was given ten days to show cause as to why the matter should not be dismissed. The Plaintiff has explained in detail through the Affidavit Showing Cause why the matter should not be dismissed. Indeed, from the facts deposed they did their best in the circumstances.
5. I am satisfied that this suit is not ripe for dismissal just yet and as such the Plaintiffs have shown sufficient cause as to why it should not be dismissed.
6. The Plaintiff is directed to expedite the hearing of the suit since the Preliminary Objection was withdrawn and the matter can now proceed to for hearing and to its logical conclusion. The parties are directed to file their trial bundles within the next 30 days and exchange them, in default the matter will be mentioned again, on 18<sup>th</sup> July 2025 for dismissal for want of compliance. Mention on 18<sup>th</sup> July 2025.
7. Orders accordingly.

**RULING DATED SIGNED AND DELIVERED VIA THE TEAMS PLATFORM THIS 12<sup>TH</sup> DAY OF JUNE 2025.**

**HON. DR. IUR FRED NYAGAKA,  
JUDGE.**

