



**Oyier v Oyier (Environment and Land Miscellaneous Application  
E006 of 2023) [2024] KEELC 786 (KLR) (19 February 2024) (Ruling)**

Neutral citation: [2024] KEELC 786 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT AND LAND MISCELLANEOUS APPLICATION E006 OF 2023  
GMA ONGONDO, J  
FEBRUARY 19, 2024  
IN THE MATTER OF NDHIWA SPMCC ELC NO 9 OF 2022**

**BETWEEN**

**GEORGE J. OTIENO OYIER ..... APPLICANT**

**AND**

**GEORGE OCHIENG OYIER ALIAS GORDON OCHIENG  
OYIER ..... RESPONDENT**

**RULING**

1. In an application by way of a Notice of motion dated 30th May 2023, originated under, inter alia, sections 1A, 1B and 3A of the *Civil Procedure Act* Chapter 21 Laws of Kenya, the applicant, Godfrey J. Otieno Oyier in person has sought the following orders;
  - a. Spent.
  - b. That the suit filed by the Applicant at Ndhiwa Law Courts being Ndhiwa SPMCC -ELC no.09 OF 2022: Godfrey J. *Otieno Oyier versus Ochieng Oyier alias Gordon Ochieng Oyier* be hereby withdrawn from the said court and transferred to Mbita Law Court for trial determination.
  - c. That the costs of this application be provided for.
2. The application is founded upon the applicant's supporting affidavit of seven paragraphs sworn on even date accompanied by a copy of a plaint and a copy of court order marked as "GJOO-1" and "GJOO-2" respectively. Also, the application is based on the grounds, inter alia;
  - a. That unknown to the Applicant the subject matter of the suit being land parcel number Kamwenda/Magunga/2700 falls under the territorial jurisdiction of Mbita Law Courts.



- b. That the Applicant is a lay person who could not understand the territorial jurisdiction of Ndhiwa Law Courts and Mbita Law Courts.
3. The respondent was duly served as disclosed in an affidavit of service sworn on 3rd August 2023. Thus, he was made aware of the application but failed to respond to the same; see *Ogada v Mollin* [2009] eKLR.
4. Notably, the suit land is located within the jurisdiction of Mbita Law Courts as revealed in a copy of the pleading marked as “GJOO-1” annexed to the applicant’s supporting affidavit.
5. Moreover, I take into account Articles 3 (6) and 48 of the *Constitution of Kenya, 2010*, sections 7 and 9 of the *Magistrates Court Act, 2015*, sections 1A, 1B, 3, 3A, 5, 11 and 18 of the *Civil Procedure Act* Chapter 21 Laws of Kenya herein.
6. It is therefore, the considered view of this court that the application is unopposed, steadfast and meritorious.
7. Accordingly, the application is hereby allowed in terms of order 2 sought therein as captured in paragraph 1 (b) hereinabove with no order as to costs.
8. It is so ordered.

**DATED AND DELIVERED AT HOMA BAY THIS 19TH DAY OF FEBRUARY 2024**

**G. M. A ONG’ONDO**

**JUDGE**

Present

1. Applicant in person
2. Luanga, court assistant

