



Agan v Omiti (Sued as legal representative and successor of the Late Omiti Misnjiro) (Environmental and Land Originating Summons E009 of 2021) [2024] KEELC 1656 (KLR) (18 March 2024) (Ruling)

Neutral citation: [2024] KEELC 1656 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E009 OF 2021
GMA ONGONDO, J
MARCH 18, 2024**

BETWEEN

LUKE AGAN PLAINTIFF

AND

JARED OMONDI OMITI (SUED AS LEGAL REPRESENTATIVE AND SUCCESSOR OF THE LATE OMITI MISNJIRO) RESPONDENT

RULING

1. This ruling is in lieu of judgment at this stage of the matter after going through the entire record inclusive of the parties’ respective submissions.
2. It is the observation of this court that the parties admitted that there is a boundary dispute herein. The plaintiff’s counsel stated that the issue in dispute is the size of the land purchased by the plaintiff and the boundary thereto.
3. Also, the defendant contended that at first, the plaintiff occupied a portion of the original land measuring approximately 100 feet by 120 feet. That however, in 2005 the plaintiff uprooted a live fence and extended the boundary to the portion of land belonging to the defendant.
4. In light of Sections 18 and 19 of the *Land Registration Act*, 2016 (2012) alongside Sections 3 and 3A of the *Civil Procedure Act*, Chapter 21 Laws of Kenya, I hereby order and direct that:
 - a. The Land Registrar based at Kosele Land Registry and the Surveyor Rachuonyo North, South and East Sub counties to visit L. R. No. Central Kasipul/Kamuma/3227 and determine its boundaries and ground position and file a report(s) in this court within the next sixty (60) days from this date.
 - b. The parties to share the cost of the exercise in (a) hereinabove in equal proportions.



- c. The Officer-in-Charge of Station Oyugis Police Station to provide security during the exercise envisioned in (a) above.
 - d. Mention for Reports on 29th May 2024.
5. Orders accordingly

DELIVERED, DATED AND SIGNED AT HOMA BAY THIS 18TH DAY OF MARCH 2024.

G.M.A ONG'ONDO

JUDGE

Present

1. Plaintiff

2. Defendant

3. Terrence, Court Assistant

