



**Ogembo v District Land Adjudication & Settlement Officer Suba/Mbita Districts & 5 others  
(Environment & Land Petition 4 of 2022) [2024] KEELC 1388 (KLR) (12 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1388 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND PETITION 4 OF 2022  
GMA ONGONDO, J  
MARCH 12, 2024**

**BETWEEN**

**CHRISTOPHER AMOL OGEMBO ..... PETITIONER**

**AND**

**THE DISTRICT LAND ADJUDICATION & SETTLEMENT OFFICER SUBA/  
MBITA DISTRICTS ..... 1<sup>ST</sup> RESPONDENT**

**THE DIRECTOR OF LAND ADJUDICATION ..... 2<sup>ND</sup> RESPONDENT**

**THE DISTRICT LAND REGISTRAR, HOMABAY/SUBA/MBITA .... 3<sup>RD</sup>  
RESPONDENT**

**THE HONOURABLE ATTORNEY GENERAL ..... 4<sup>TH</sup> RESPONDENT**

**PAUL APIDA JUMA ..... 5<sup>TH</sup> RESPONDENT**

**JOSPHAT OMONDI JUMA, SUED AS THE LEGAL ADMINISTRATORS OF  
THE ESTATE OF JOHN JUMA OSORE, NOW DECEASED ... 6<sup>TH</sup> RESPONDENT**

**RULING**

1. In an application by way of a notice of Motion dated 5th February 2024, the petitioner/applicant generated under, inter alia, sections 1A and 1B of the *Civil Procedure Act* Chapter 21 Laws of Kenya and Articles 22 (2), 27, 48 and 159 (2) (c) of the *Constitution* of Kenya, 2020 and through the firm of Oguttu Mboya, Ochwal and Company Advocates is seeking the following principal order;
  - a. The Honourable Court be pleased to order and/or direct the Honourable Deputy Registrar herein, to execute the Mutation, Application for Consent of Land Control Board, together with the Transfer Instrument(s) over and in respect of LR No LAMBWE West/lambwe West‘B’/217, respectively, to facilitate the sub-division, transfer and registration of the resultant parcels to and/or in favour of the family of Norbert Ogembo Ongus, now Deceased



represented by the 5<sup>th</sup> and 6<sup>th</sup> Respondents herein in terms of the Judgment of the Court and more particularly, the Amended Decree of the Honourable Court made on 26<sup>th</sup> day July 2022.

2. The application is anchored upon the applicant's supporting affidavit of 19-paragraphs sworn on even date together with a copy of an amended decree and a copy of mutation marked as "CAO 1" and "CAO 2" respectively annexed thereto and grounds on the face of it. The grounds include;
  - a. Pursuant to the Amended Decree under reference the suit property was ordered to be sub-divided, whereby 12 Acres thereof was awarded to the family of John Juma Osore now Deceased represented by the 5<sup>th</sup> and 6<sup>th</sup> Respondents whilst the remainder portion was awarded to in favour of the family of Norbert Ogembo Ongus now Deceased represented by the Petitioner/Applicant.
  - b. Owing to the foregoing, the parties herein indeed engaged the Sub-County Surveyor Suba North/South sub-counties who thereby after visited the suit property in the presence of the Parties, the Area Chief and Security Officers and thereafter sub-divided and demarcated the suit Property in line with the terms of the Decree.
  - c. Following the visitation, subdivision and demarcation, the Surveyor has since prepared and readied the requisite Mutation save that same ought to be signed by the Deputy Registrar and/or Executive Officer of this Honourable Court to facilitate registration of same.
3. Ms W. Ochwal learned counsel has informed the court thus:

"We served the respondents in particular the 5<sup>th</sup> and 6<sup>th</sup> as per affidavit of service of 11<sup>th</sup> March 2024. There was no appeal herein. May the court deal with the Notice of Motion and grant Orders sought therein as the same is not opposed".

3. The respondents were duly served as disclosed in an affidavit of service of 11th March 2024.
4. There is no challenge to the application by the respondents.
5. I take into account the nature of the application and the provisions of the Constitution and the law under which it was originated. It is steadfast, cogent and meritorious.
6. In the premises, the application is hereby allowed in terms of the principal order as stated in paragraph 1 hereinabove.
7. It is so ordered.

**DATED AND DELIVERED AT HOMA BAY THIS 12TH DAY OF MARCH 2024**

**G M A ONGONDO**

**JUDGE**

**PRESENT;**

W. Ochwal learned counsel for the petitioner/applicant

T. Luanga, court assistant

