



REPUBLIC OF KENYA



**KENYA LAW**  
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**Owuonda v Odongo & another (Environment and Land Appeal  
3 of 2021) [2024] KEELC 4323 (KLR) (29 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4323 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT AND LAND APPEAL 3 OF 2021  
GMA ONGONDO, J  
MAY 29, 2024**

**BETWEEN**

**ELISHA OCHIENG OWUONDA ..... APPELLANT**

**AND**

**PHILEMON ODERO ODONGO ..... 1<sup>ST</sup> RESPONDENT**

**ERICK OCHIENG ODERO ..... 2<sup>ND</sup> RESPONDENT**

*(Being an appeal against the judgement of SRM Hon. Nichodemus  
N. Moseti delivered on the 18th day of August, 2021 in the  
Environment and Land Case No. 11 of 2019 at SRM's Court at Mbita)*

**RULING**

1. In a Notice of Motion dated 21<sup>st</sup> March 2024 under, inter alia, sections 1A, 1B and 3A of the Civil Procedure Act chapter 21 Laws of Kenya, the appellant/applicant, Elisha Ocheing Awuonda through Obach and partners Advocates is seeking the orders thus:
  - a. That this Honourable court be pleaded to set aside the orders issued on 19<sup>th</sup> March 2024 dismissing this appeal and reinstate the same.
  - b. Costs of this application be in the cause.
2. The basis of the application are grounds, to set out on it's face and the supporting affidavit sworn on even date together with a copy of diary and a copy of citation annexed thereto. Briefly, the applicant's lamentation is that his counsel misdiarized the matter and that the respondents passed on hence, being substituted herein.
3. The application was duly served as disclosed in the affidavit of service sworn on 22<sup>nd</sup> March 2024 by Obach Humprey, learned counsel for the applicant.



4. There is no response to the application.
5. So, does the applicant deserve the orders sought in the application?
6. The respondents' counsel was duly served and opted not to respond to the application; see also *Ogada -versus Mollin* (2009) KLR 620.
7. Clearly, there is no opposition to the application. The same is steadfast.
8. Ms B. Ochieng learned counsel for the applicant has implored the court to grant prayers (a) and (b) in the application.
9. In the premises, I find that the application is reinforced by the grounds of its face, the supporting affidavit and the accompanying documents. The application is meritorious.
10. The upshot is that the application is hereby allowed in terms of prayers as stated in paragraph 1 (a) and (b) hereinabove.
11. It is so ordered.

**DATED AND DELIVERED AT HOMA BAY THIS 29<sup>TH</sup> DAY OF MAY 2024.**

**G.M.A ONG'ONDO**

**JUDGE**

Present:

1. Ms. Ochieng, learned counsel for the appellant/applicant.
2. Court Assistant, Mutiva.

