



**Opiyo v Osongo (Environment & Land Case E011 of 2023)  
[2024] KEELC 4487 (KLR) (5 June 2024) (Ruling)**

Neutral citation: [2024] KEELC 4487 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND CASE E011 OF 2023  
GMA ONGONDO, J  
JUNE 5, 2024**

**BETWEEN**

**PAMELLA AUMA OPIYO ..... APPLICANT**

**AND**

**MARY ATIENO OSONGO ..... RESPONDENT**

**RULING**

1. Mr. Nyakwamba learned counsel for the applicant, Pamela Auma Opiyo has made an application that the request for ex-parte Judgement dated 26<sup>th</sup> February 2024 be allowed pending formal proof.
2. The respondent duly served (see [Ogada -versus -Mollin \(2009\)](#) eKLR), entered appearance herein. However, she has not filed any statement of defence.
3. Order 10 rules 4, 5, 6 and 7 of the Civil Procedure Rules 2010 provide for liquidated demand and interlocutory judgment in a claim for pecuniary damages only or for detention of goods with or without a claim for pecuniary damages.
4. In the instant case, the applicant's claim is for adverse possession in respect of land reference number Kasgunga/Kamreri/841. The same is not for a liquidated claim, pecuniary damages or detention of goods.
5. So, the request for ex-parte judgment dated 26<sup>th</sup> February 2024 is noted as superfluous herein.
6. Pursuant to Order 10 Rule 9 of the Civil Procedure Rules, 2010 aligned to Articles 48, 50(1) and 159 (2) (b) of [the Constitution](#) of Kenya 2010 and section 3 of the [Environment and Land Court Act](#) 2015 (2011), this suit is set down for hearing on 1<sup>st</sup> July 2024
7. The respondent be served accordingly.
8. It is so ordered.



**Delivered and dated at Homa Bay this 5<sup>th</sup> day of June 2024.**

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

**JUDGE**

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