



Orero & 5 others v Ombewa (Environmental and Land Originating Summons E002 of 2024) [2024] KEELC 5338 (KLR) (18 July 2024) (Ruling)

Neutral citation: [2024] KEELC 5338 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS E002 OF 2024
GMA ONGONDO, J**

JULY 18, 2024

**IN THE MATTER OF : SECTIONSS 37 AND 38 OF THE
LIMITATION OF ACTIONS ACT CAP 22**

AND

**IN THE MATTER OF: SECTION 30 (G) OF THE REGISTERED
LAND ACT, CAP 300**

AND

**IN THE MATTER OF: CLAIM FPR ADVERSE POSSESSION
PURSUANT TO SECTION 38 OF LIMITATIONS OF ACTION
ACT**

BETWEEN

**PIUS AKUMU ORERO 1ST PLAINTIFF
PHILIP OSEWE ORERO 2ND PLAINTIFF
LUKE OUMA ORERO 3RD PLAINTIFF
BENARD ONYANGO ORERO 4TH PLAINTIFF
PATRICK OTIENO AKUMU 5TH PLAINTIFF
NICANOR OWUOR AKUMU 6TH PLAINTIFF**

AND

JOSEPH AYO OMBEWA DEFENDANT



RULING

1. By a Notice of motion dated 3rd April, 2024, the Defendant/Applicant through M/s. Oyoo Z. Antone and Company Advocates, is seeking a temporary injunction against the six Plaintiffs/Respondents in respect of the whole of suit property, LR No. North Sakwa/Kanyamgony/1247 pending the hearing and determination of this suit.
2. The application was duly served on the respondents' counsel as revealed in Affidavit of service sworn on 15th May 2024 herein.
3. The respondents had the right to respond to the application or not; see also *Ogada v Mollin* (2009) KLR 620.
4. Clearly, the respondents failed to respond to the application.
5. Ms. Z. A. Oyoo learned counsel for the applicant has urged the court to grant temporary injunction sought in this application to preserve the suit property. That the respondent intends to dispose of the same.
6. In the premises, it would be necessary to preserve the suit property in the interim, pending the outcome of the suit in line with Ogada case (*supra*) and section 13 (7) (a) of the *Environment and Land Court Act* 2015 (2011). The application is unchallenged and meritorious
7. Wherefore, the application is hereby determined that the obtaining status quo over the suit property to be maintained by the parties pending the outcome of the suit. In particular, the parties shall not sell, charge, transfer, subdivide the suit property or erect any permanent structure thereon during the pendency of this suit.
8. Costs of the application be in the cause.
9. It is so ordered

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MIGORI THIS 18TH DAY OF JULY, 2024.

G.M.A. ONGONDO

JUDGE

In presence of: -

Mr. Z. A. Oyoo learned counsel for the Applicant

Court Assistant – Tom Maurice

