



REPUBLIC OF KENYA



**KENYA LAW**  
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**Chacha v Chacha (Environment and Land Appeal E05 of 2023)  
[2024] KEELC 5420 (KLR) (15 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5420 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MIGORI  
ENVIRONMENT AND LAND APPEAL E05 OF 2023  
GMA ONGONDO, J  
JULY 15, 2024**

**BETWEEN**

**HILLARY GEKURA CHACHA ..... APPELLANT**

**AND**

**THOMAS MASWI CHACHA ..... RESPONDENT**

*(Being an Appeal arising from the Judgment of Hon. M.N. Obiero, Senior Principal Magistrate dated 30th March 2023 at Kehancha Principal Magistrate Court in ELC NO. 06 OF 2020)*

**RULING**

1. The appellant in person commenced the instant Appeal by way of a Memorandum of Appeal dated 20<sup>th</sup> April, 2023 founded on grounds, inter alia;
  - i. That the learned trial Magistrate erred in law and fact by denying the appellants access to the last submissions of the respondent prior to judgment even after several requests and judgment therefore staggered ex-parte.
  - ii. That the learned trial Magistrate erred in law and fact by not giving any slightest attention or consideration to elements of fraud, contempt and/or perjury featuring on the respondent's affidavits, counterclaim, documents and averments. He gave no orders on the same.
2. The appellant was duly served as discerned in the affidavit of service sworn on 29<sup>th</sup> March 2024. He is absent without any reason.
3. Mr. B. Singei has implored the court to dismiss this appeal with costs in the interest of Justice.
4. The appellant has been given a fair opportunity to be heard as stated in paragraph 2 hereinabove; see also *Ogada v Mollin* [2009] KLR 620.



5. This court is guided by Article 159 (2) (b) of *the Constitution* of Kenya, 2010 and sections 1A,1B,3 & 3A of the *Civil Procedure Act* Chapter 21 Laws of Kenya and sections 3 of the *environment and Land Court Act*, 2015 [2011].

6. In the premises, the respondent's prayer has merit. This Appeal is hereby dismissed with costs to the respondent.

Ordered accordingly.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MIGORI THIS 15<sup>TH</sup> DAY OF JULY, 2024.**

**G.M.A. ONGONDO**

**JUDGE**

In presence of: -

Mr. B. Singei learned counsel for Respondent

Court Assistant – Tom Maurice

