



**Gekara v Gekara & 3 others (Environment & Land Case 97 of 2021)
[2024] KEELC 14095 (KLR) (11 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 14095 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT & LAND CASE 97 OF 2021**

JM KAMAU, J

DECEMBER 11, 2024

BETWEEN

ZACHARY OCHWARI GEKARA PLAINTIFF

AND

HENRY BOSIRE GEKARA 1ST DEFENDANT

BENJAMIN MOKUA GEKARA 2ND DEFENDANT

JOSEPH OKERO GEKARA 3RD DEFENDANT

OTAO GEKARA 4TH DEFENDANT

RULING

1. Before me is an Application dated 28/6/2024 by the Defendants for orders that this Court be pleased to set aside the proceedings of 19/6/2024 ‘ás the record is confusing and misleading.’ And that the case be re-opened for Defence Hearing and that there be a stay of the Judgment slated for 25/7/2024. The Grounds for the said Application are that the evidence was recorded in the wrong file. The 1st Defendant responded to the Application by filing a Replying Affidavit sworn on 15/7/2024 where he deponed that the Applicant had participated in the proceedings of 19/6/2024 and indeed sought for time to write his submissions and that the 1st Defendant had not been substituted. He is one of the Defendants in Nyamira ELC Nos. 58/59 of 2015(Kisii) but opposes the Application on behalf of the Defendants in Nyamira ELC Suit No. 97 of 2021. The suits were consolidated with the lead files being Kisii ELC No.1143 of 2016 and which was registered as Nyamira ELC No.97 of 2021. He depones that the re-opening of the case would cause more confusion.
2. In the interest of time, if the Evidence was indeed recorded in the wrong file, I order that the Applicant do specifically apply to have the said evidence transferred to the correct file. This Application is hereby disallowed with costs.



RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 11TH DAY OF DECEMBER, 2024.

MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant: Brenda

Plaintiff's Counsel: Mr. Anyona

Defendants' Counsel: Mr. Aminga h/b for Mr. Nyariki

