



**Were v Mbori (Suing as the legal representative of the Estate of  
the Late Isaac Mbori Oyugi) (Environment and Land Appeal  
E008 of 2022) [2023] KEELC 157 (KLR) (18 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 157 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT AND LAND APPEAL E008 OF 2022  
GMA ONGONDO, J  
JANUARY 18, 2023**

**BETWEEN**

**JOSEPH OCHILO WERE ..... APPELLANT**

**AND**

**EDWARD OGANGA MBORI (SUING AS THE LEGAL REPRESENTATIVE OF  
THE ESTATE OF THE LATE ISAAC MBORI OYUGI) ..... RESPONDENT**

**RULING**

1. Ms Ochieng Anyango holding brief for Kisaka learned counsel for the respondent has informed the court that record of appeal has not been filed and served herein.
2. The Counsel has further informed the court that the applicant intends to dispose of the suit land herein. She has sought interim preservation of it.
3. In view of sections 3 and 13 (7) (a) of the *Environment and Land Court Act, 2011* and sections 3 and 3A of the *Civil Procedure Act* Cap 21 Laws of Kenya and being guided by the Court of Appeal decision in *Ogada v Mollin* [2009] eKLR , I order and direct that:
  - a. The Parties to comply with Order of Stay of execution of Judgment, granted on December 19, 2022.
  - b. The Parties shall not sell, alienate, charge, transfer, subdivide or erect permanent structures on the suit land. LR No Central Kasipul/Kanuma/1875 in order to preserve the same pending further orders and directions of this court.
4. The appellant’s Counsel to file and serve record of appeal in its complete form within 21 days from this date in default the appeal be dismissed in the spirit of Article 159 (2)(b) of the *Constitution of Kenya, 2010* and section 3 of the *Environment and Land Court Act* of 2015 (2011).



5. The appeal is fixed for further directions on February 23, 2023.

6. The respondent's Counsel to serve these orders forthwith.

**DELIVERED, DATED AND SIGNED AT HOMA-BAY THIS 18<sup>TH</sup> DAY OF JANUARY 2023.**

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

**JUDGE**

**Present**

1. Ms. Ochieng Anyango holding brief for Kisaka for the Respondent.

2. Terence, Court Assistant

