



REPUBLIC OF KENYA



**Jachong v Ogutu (Environment & Land Case E005 of 2021)  
[2023] KEELC 369 (KLR) (18 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 369 (KLR)

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY**

**ENVIRONMENT & LAND CASE E005 OF 2021**

**GMA ONGONDO, J**

**JANUARY 18, 2023**

**IN THE MATTER OF THE LIMITATION OF ACTIONS ACT, CAP 22 LAWS OF KENYA.**

**IN THE MATTER OF A CLAIM FOR ADVERSE POSSESSION  
PURSUANT TO SECTION 38 OF THE LIMITATION OF ACTIONS ACT**

**AND**

**IN THE MATTER OF LAND PARCEL NO. KAMDAR ADJUDICATION SECTION NO 3437**

**BETWEEN**

**SYPRIAN NJIRI JACHONG ..... PLAINTIFF**

**AND**

**JAELO OGUTU ..... DEFENDANT**

**RULING**

1. By a notice of withdrawal of suit dated January 17, 2023 and duly filed herein, the plaintiff, Sypryan Njiri Jachong through the firm of Quinter Adoyo and Company Advocates, wishes to withdraw the instant suit entirely.
2. Further, the plaintiff has issued notice that he is amenable to the possibility of a discussion between his advocates on record and advocates for the defendant on the issue of costs.
3. It must be noted that the plaintiff generated the suit by way of an originating summons dated November 29, 2021 and filed in court on November 29, 2021 claiming to have acquired title over the whole of Kamder Adjudication section plot no 3437 in Homa-Bay county by adverse possession.



4. Ms Odhiambo learned counsel instructed by the firm of G S Okoth and Company Advocates for the defendant has responded to the notice that:

“No objection. We can agree on costs given enough time”.

5. Upon perusal of the Notice of withdrawal dated January 17, 2023 and after hearing counsel for the respective parties herein, the said notice is hereby allowed;

6. The parties to agree on the issue of costs of the suit.

7. Further directions as regards costs on February 21, 2023.

8. It is so ordered.

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

**G M A ONG'ONDO**

**JUDGE**

**Present:**

**1. Quinter Adoyo, learned Counsel for the plaintiff/respondent**

**2. Ms Odhaimbo, learned Counsel instructed by M/s G S Okoth and Company Advocates for the defendant/applicant.**

**3. Terence –Court assistant.**

