



**Aketch (Suing as the administrator of the Estate of Jethro Akech Odongo) v Onyango (Sued as the administrator of the Estate of Joash Onyango Ochieng) (Environment and Land Appeal 30 of 2021) [2023] KEELC 15949 (KLR) (28 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 15949 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT AND LAND APPEAL 30 OF 2021  
GMA ONGONDO, J  
FEBRUARY 28, 2023  
FORMERLY MIGORI ELC APPEAL NO E028 OF 2021**

**BETWEEN**

**NARKISO OYUGI AKETCH (SUING AS THE ADMINISTRATOR OF THE ESTATE OF JETHRO AKECH ODONGO) ..... APPELLANT**

**AND**

**ELIJAH ODHIAMBO ONYANGO (SUED AS THE ADMINISTRATOR OF THE ESTATE OF JOASH ONYANGO OCHIENG) ..... RESPONDENT**

*(Being an appeal from the judgment of Hon. Tom Mark Olando, Principal Magistrate dated 5th May 2021 in Homa-Bay Chief Magistrate's Court Environment and Land Case No. 63 of 2019)*

**RULING**

1. On 9<sup>th</sup> February 2023, the applicant through Kijana and Company Advocates filed an application by way of Notice of Motion of even date seeking, *inter alia*;
  - a. Upon inter-parte hearing of this application, orders do issue for stay of execution of the decree hereof, pending the outcome of the application for stay of execution filed in the court of Appeal at Kisumu Misc. ELC application No E 132 of 2022.
  - b. Upon inter-parte hearing of this application, orders do issue to stop and/or prevent the sale of the Applicant's goods that have so far been proclaimed to settle the decree hereof.



2. Ms Ochieng instructed Kijana and Company Advocates has informed the Court thus:

“Notice of motion dated 9<sup>th</sup> February 2023 has been overtaken by events as execution has been carried out. Therefore, I pray that the same be withdrawn with no orders as to costs. Ms. Kijana just been instructed herein.”

3. The application for withdrawal is not opposed and merited in the circumstances.

4. I, therefore, proceed to order the application withdrawn with no orders as to costs.

5. It is so ordered.

**DELIVERED, DATED AND SIGNED AT HOMABAY THIS 28<sup>TH</sup> DAY OF FEBRUARY 2023.**

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

**JUDGE**

**PRESENT**

1. Ms. Ochieng instructed by Kijana and company Advocates for the appellant.

2. Court Assistant, Mutiva.

