



**Wanga v Kowiti & another (Environment and Land Appeal  
E059 of 2022) [2023] KEELC 15804 (KLR) (27 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 15804 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT AND LAND APPEAL E059 OF 2022  
GMA ONGONDO, J  
FEBRUARY 27, 2023**

**BETWEEN**

**MICHAEL OKWORO WANGA ..... APPELLANT**

**AND**

**JOSEPH OMOL KOWITI ..... 1<sup>ST</sup> RESPONDENT**

**MARGRAT ACHIENG OTIENO ..... 2<sup>ND</sup> RESPONDENT**

*(Appeal from the ruling of the Chief Magistrate's Court, Homa Bay ELC No. 49 of 2020 delivered on the 30th November, 2022)*

**RULING**

1. After hearing Mr Nyakwamba and Ms Apondi for the appellant and the respondent, in regard to a notice of motion dated December 13, 2022, respectively, it is hereby ordered that:
  - a. The access road initially opened by the court order in Homa-Bay Chief Magistrate's court ELC Case No 49 of 2020 passing through LR Nos Gem/Kenyanjwa/682 and Gem/Kanyanjwa/1052, to remain open.
  - b. The illegal diversion that was opened by the appellant in Lr No Gem/kanyanjwa/1052, to be closed pending the hearing and determination of this appeal.
  - c. A parcel of land falling in Gem/Kanyanjwa/1052 between the access road and the illegal diversion to remain uncultivated by either parties herein pending the hearing and determination of this appeal.
  - d. In that regard, the notice of motion dated December 13, 2023 herein, be marked as compromised accordingly.
  - e. Costs of the said motion to abide and the outcome of this appeal.



f. It is so ordered.

**DELIVERED AND DATED AT HOMABAY THIS 27<sup>TH</sup> DAY OF FEBRUARY 2023.**

**GMA ONG'ONDO**

**JUDGE**

**PRESENT.**

Mr Nyakwamba, learned counsel for the applicant

Ms Apondi, learned counsel for the respondent.

Mutiva, Court Assistant.

