



REPUBLIC OF KENYA



KENYA LAW
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**Achieng v Owuor; Ndong (Interested Party) (Environment and Land Appeal
E014 of 2021) [2023] KEELC 899 (KLR) (14 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 899 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND APPEAL E014 OF 2021
GMA ONGONDO, J
FEBRUARY 14, 2023**

BETWEEN

ELISHA OPIYO ACHIENG APPELLANT

AND

NELSON ATIENO OWUOR RESPONDENT

AND

JEREMIAH OBAR NDONG INTERESTED PARTY

(Being an Appeal from the judgment of the Senior Principal Magistrate's Court at Homa-Bay. Hon. T.Obutu, Senior Principal Magistrate, dated 16th day of June 2021)

RULING

1. This ruling is in respect of two applications namely:
 - a. A Notice of Motion dated April 12, 2023 and filed in court on April 28, 2023 by the firm of G S Okoth and Company Advocates for the interested party/respondent. (the 1st application herein)
 - b. A notice of motion dated January 24, 2023 and filed in court on January 26, 2023 by the firm of G S Okoth and Company Advocates for the interested party/respondent (the 2nd application herein)
2. In the 1st application, the applicant has sought the orders infra:
 - a. The honourable court be pleased to strike out the appellant's memorandum of appeal dated November 29, 2021 and thereafter dismiss the entire appeal.
 - b. The costs of this application be awarded to the interested party.



3. By the 2nd application, the orders sought are thus:
 - a. The honourable court be pleased to make an order directing the county land registrar Homa-Bay to register a restriction on the title of Land Parcel no Kanyada/Kothidha/561 pending the hearing and determination of the appeal.
 - b. The costs of this application do abide the result of the appeal.
4. Mr Ken Omollo learned counsel for the appellant/respondent and Ms P Odhiambo learned counsel instructed by M/s G S Okoth and Company Advocates for the respondent/interested party/applicant have agreed to have the 1st and 2nd applications determined as follows:
 - a. The 1st application be and is hereby abandoned.
 - b. The 2nd application is hereby allowed in terms of prayer no 1 sought therein and as set out in paragraph 3(b) hereinabove.
 - c. Costs of the 1st and 2nd applications to abide the outcome of this appeal.
5. It is so ordered.

DATED AND DELIVERED AT HOMA BAY THIS 14TH DAY OF FEBRUARY, 2023.

G M A ONG'ONDO

JUDGE

Present:

- a. Mr Ken Omollo learned counsel for the appellant/respondent
- b. Mr Odhiambo instructed by G S Okoth learned Counsel for the 1st interested party/applicant.
- c. Okello and Fiona, Court assistants.

