



**Gogo v Gogo (Environment & Land Case E003 of 2021)  
[2023] KEELC 833 (KLR) (14 February 2023) (Ruling)**

Neutral citation: [2023] KEELC 833 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY  
ENVIRONMENT & LAND CASE E003 OF 2021  
GMA ONGONDO, J  
FEBRUARY 14, 2023**

**BETWEEN**

**OTEDO ERNEST GOGO ..... PLAINTIFF**

**AND**

**OBIERO NICHOLAS GOGO ..... DEFENDANT**

**RULING**

1. This ruling in lieu of judgment is provoked by the plaintiff's submissions dated November 17, 2022 as well as the defendant's submissions dated January 17, 2023 herein.
2. On one hand, M/s Veronica Migai and Co Advocates, the plaintiff's counsel at paragraph 1(e) of her submissions alludes to the fact that another suit, Mbita Senior Resident Magistrate's Court Civil Case No 22 of 2020, is ongoing.
3. On the other hand, the defendant's counsel, Madoro Ochieng Khairalla and Company Advocate, submitted that the matter in Mbita Senior Resident Magistrate's Court Civil Case No 22 of 2020 was heard to conclusion. That thus, the instant suit is *res judicata*.
4. In the present suit generated by way of Originating Summons dated November 9, 2021 and filed on November 22, 2021, the plaintiff sought among other orders, that upon granting prayers (a) to (d) listed thereon, the honourable court be pleased to grant stay of proceedings in Mbita Senior Resident Magistrate's Court Civil Case No 22 of 2020 pending the hearing and determination of this suit.
5. The plaintiff indicated at paragraph (h) of the said Originating Summons that the defendant herein instituted Mbita Senior Resident Magistrate's Court Civil Case No 22 of 2020 seeking eviction orders against the plaintiff and his brother. The same is reiterated at paragraph 12 of the Supporting Affidavit sworn by the plaintiff on November 9, 2020 and attached thereto.



6. In the interest of justice pursuant to, inter alia, Sections 1A, 1B, 3 and 3A of the *Civil Procedure Act*, Chapter 21 Laws of Kenya alongside Sections 3 and 19 of the *Environment and Land Court Act*, 2015 (2011), this court hereby orders and directs the Deputy Registrar to urgently call for the original file together with at least three certified copies of the determination, if any, in Mbita Senior Resident Magistrate's Court Civil Case No 22 of 2020 for perusal to enable this court arrive at a just decision in this matter.
7. This matter is fixed for mention for directions on March 8, 2023.
8. Orders accordingly.

**DELIVERED, DATED AND SIGNED THIS 14<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**G M A ONGONDO**

**JUDGE**

**Present**

**Mr Oso holding brief for Ms Migai, Learned Counsel for the plaintiff/applicant**

**Okello - Court Assistant**

