



**Ochieng v Odhiambo (Environment & Land Case 65 of 2015)  
[2022] KEELC 15690 (KLR) (24 March 2022) (Ruling)**

Neutral citation: [2022] KEELC 15690 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT BUSIA  
ENVIRONMENT & LAND CASE 65 OF 2015**

**AA OMOLLO, J  
MARCH 24, 2022**

**BETWEEN**

**JOSEPH OWINO OCHIENG ..... PLAINTIFF**

**AND**

**JOHN ODHIAMBO ..... DEFENDANT**

**RULING**

1. On September 24, 2020, this Court rendered a judgment which in part required the County Surveyor, Busia to visit the land and mark out the size of the land occupied by the plaintiff. It was on the basis of this report that the Court was to make final orders regarding the size of the suit land that the plaintiff was awarded. The County Land Registrar and the County Surveyor indeed visited the land on November 16, 2020 and filed their report on November 25, 2020. The report stated that the exercise could not be undertaken because the plaintiff was claiming the whole land.
2. It is indeed true in the Originating Summons, the plaintiff had pleaded a claim for the whole land by virtue of adverse possession. However based on the plaintiff's evidence, this Court made a finding that he was not entitled to the entire land.
3. This finding was reached on the basis of the plaintiff's evidence in chief where he stated that he was claiming 1½ share of the land; in cross-examination the plaintiff stated he lived on the land together with his brother Clement and step-mother Risper. He did not bring this suit as a representative of his stepmother and brothers. In re-examination he also admitted that the defendant also occupies a portion of the suit land and parcel No 11.
4. Consequently, this court makes final orders that the plaintiff is declared to be entitled to a portion measuring 1½ acres of land comprised in Bunyala/Mudembi/10. The defendant shall execute relevant transfer forms to facilitate the transfer and registration of the plaintiff as owner of the 1½ acre portion within 30 days hereof. In default, the Deputy Registrar to sign the documents in place of the defendant.



The plaintiff to meet the costs of such sub-division, transfer and registration of the 1½ acre portion into his name. Each party shall meet their respective costs of the suit.

**DATED, SIGNED AND DELIVERED AT BUSIA THIS 24TH DAY OF MARCH 2022.**

**A. OMOLLO**

**JUDGE**

