



**Kemoni & another v Omwoyo (Environment & Land Case
105 of 2021) [2023] KEELC 17775 (KLR) (8 June 2023) (Ruling)**

Neutral citation: [2023] KEELC 17775 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT & LAND CASE 105 OF 2021**

JM KAMAU, J

JUNE 8, 2023

BETWEEN

YOBENSIA KEMUNTO KEMONI 1ST PLAINTIFF

MARGARET NYAITONDI GWOMA 2ND PLAINTIFF

AND

GEOFFREY MANGERA OMWOYO DEFENDANT

RULING

1. Before court is the Notice to show cause dated December 14, 2022 why the Judgment Debtor – Geoffrey Omwoyo should not be evicted from a portion of land measuring 5 ½ Acres out of LR No Matutu Settlement Scheme/215 and also why he should not pay the sum of Kshs 226,178/= being the costs awarded by the court. This is pursuant to the Judgment of the Honourable Mr Justice Asike Makhandia as he then was delivered on September 30, 2010 more than 12 years ago. The Judgment Debtor opposed the Notice to show cause through his Replying Affidavit sworn on January 19, 2023 by denying that such Judgment was ever made and that it is the Land Registrar that was mandated to implement the order. He also says that he was not served with the Bill of costs and not even aware when it was taxed. He further says that if ever the Bill of Costs was taxed, the amount awarded should be set off from his damaged trees. The Judgment of the court reads as follows: -

I am satisfied that the Plaintiffs have proved their case on a balance of probability and are therefore entitled to prayers (a) and (c) in the Plaintiff.

Prayer (c) is on costs of the suit while prayer (a) is on resurvey of Matutu Settlement Scheme/215 so that land parcel No Matutu Settlement Scheme/214 measures 15.5 Acres while land parcel No Matutu Settlement Scheme/215 measures 4 Acres and the Decree was drawn accordingly. This is the only Judgment in the file and the District Land Registrar’s Report dated February 29, 2012 is not part of the Judgment nor was it ever in compliance with any court order. The Notice to show cause therefore fails.



RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 8TH DAY OF JUNE 2023

MUGO KAMAU

JUDGE

In the Presence of:

Court Assistant: Sibota

Plaintiffs: N/A

Defendant: N/A

