



**Kamau v Kamau & 4 others (Environment & Land Case
530 of 2015) [2023] KEELC 18847 (KLR) (13 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18847 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 530 OF 2015**

**JE OMANGE, J
JULY 13, 2023**

BETWEEN

HANAH WANJIRU KAMAU PLAINTIFF

AND

JANE WANJIRU KAMAU 1ST DEFENDANT

LAURENCE BABU 2ND DEFENDANT

CHRISTOPHER GACHENE 3RD DEFENDANT

TERESIA KINYUA 4TH DEFENDANT

JOYCE WANJA 5TH DEFENDANT

RULING

1. The subject matter of this application is title number Ruiru/Ruiru/ East Block 2/5173 hereinafter referred to as the suit property.
2. The plaintiff/ applicants application dated October 25, 2022 prays for the following reliefs;
 - i. That the honourable court be pleased to order the forcible eviction of the defendants/ respondents, their families, relatives, agents, servants or any person claiming an interest under them and give vacant possession of title number Ruiru/Ruiru East Block 2/5173 to the plaintiff/applicant forthwith in terms of the judgment of March 17, 2022 and decree of May 19, 2022.
 - ii. That the eviction order herein be executed by M/S Betabase Auctioneers and the court bailiff.
 - iii. The OCS Ruiru Police Station to provide the necessary security to facilitate execution, enforcement and/or implementation of this eviction order.



- iv. That costs of this application be provided for.
3. The application is brought on the grounds that on the March 17, 2022 judgement was delivered by this court in the following terms;
 - a. That a declaration is hereby issued that the plaintiff's title deed with respect to title number Ruiru/Ruiru East Block 2/5173 measuring 0.400 hectares ("the suit property") is conclusive evidence of ownership and the plaintiff is the absolute and indefeasible owner of the suit property.
 - b. That a declaration is hereby issued that that the defendants whether by themselves or their servants or agents or otherwise howsoever are wrongfully in occupation of the suit property and are accordingly, trespassers on the same.
 - c. That a declaration is hereby issued that the defendants whether by themselves or their servants or agents or otherwise howsoever are not entitled to remain on the suit property.
 - d. That the defendants, their servants and/or agents are hereby directed to vacate he suit property Ruiru/Ruiru East/Block 2/5173 within ninety (90) days from the date of this judgment failure to which the plaintiff be at liberty to use lawful means to evict them.
 - e. That a permanent injunction is hereby issued restraining the defendants whether by themselves or their servants or agents or otherwise howsoever from trespassing onto the suit property.
 - f. General damages for trespass Kshs 200,000/-.
 - g. Costs of the suit and interest
 4. The application seeking for stay of execution was dismissed by this court on September 30, 2022. That although the defendants have filed civil appeal E400 of 2022 they have not been granted stay of execution. The application is supported by the affidavit of Hannah Wanjiru Kamau in which she urges the court to allow her to enjoy the fruits of her judgement in view of her failing health and advanced age.
 5. Lawrence Babu filed a replying affidavit on behalf of the defendants. He urged the court to grant stay as the appeal has already been filed and has a likelihood of success.
 6. I have considered the pleadings by the parties. It is not contested that there was a judgement of the court which included an order of eviction. It is also not in dispute that although an appeal has been filed there has been no order of stay granted either by the Court of Appeal or this court. The plaintiff is entitled to the fruits of her judgement.
 7. Consequently, the application is allowed in the following terms;
 - a. That an eviction order do issue of the defendants/ respondents or any person claiming under them to give vacant possession of title number Ruiru/Ruiru/ East Block 2/5173 to the plaintiff/applicant forthwith in terms of the judgement of March 17, 2022 and decree of May 19, 2022.
 - b. That the eviction do take place after 30 days of the service of this order on the defendants/ respondents and any persons on the suit property.
 - c. That the eviction order be executed by MS Betabase Auctioneers and the court bailiff.
 - d. That the OCS Ruiru Police Station do provide the necessary security to facilitate implementation of the order



DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS THIS 13TH DAY OF JULY 2023.

JUDY OMANGE

JUDGE

