

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KAKAMEGA

ELC CASE NO. 124 OF 2015

ENOCK ISIAHO MMBATHA.....PLAINTIFF/APPLICANT

VERSUS

STEPHEN MULINYA ANENE

GLADYS SHIKUZI.....DEFENDANTS/RESPONDENTS

THE OFFICER COMMANDING

SHISASARI POLICE STATION (OCS).....CITED PARTY

RULING

The application is dated 22nd May 2020 and seeks the following orders:-

(a) That the cited party be made a party to this summons.

(b) That the eviction order issued on 22nd November, 2019 and a further order issued on 23rd April, 2020 is disobeyed and is therefore in contempt by the cited party and consequential remedies should therefore apply as per the penal notice.

This application is based on the following grounds that the applicant was issued with an eviction order on 22nd November, 2019 which has never been contested to date. That a further order was issued to the officer to execute and all orders served against him. That the orders are long overdue and not executed despite follow up and pressure to do so.

The applicant submitted that on 22nd November, 2019 this honourable court issued an eviction order against the respondents and a further order which were all served against the officer commanding Shisasari police station for action on 18th March, 2020 and on 23rd April, 2020 as per the annexed copies marked E.I.M. That to date the order has not been executed.

The respondent submitted that on the 18th March, 2020 he was served with a court order dated 22nd November, 2019 which required the eviction of the defendants, their agents, servants, employees or whosoever who are trespassers on land parcel No. Kakamega/Shiru/902. The order was directed to the O.C.S. or O.C.P.D. Kakamega police station to enforce. (Attached as annexure AM 1.). That the order should be amended to read "That the eviction order be enforced and supervised by the OCS Shinyalu Police Station or OCPD Kakamega East" Under whose jurisdiction the piece of land is located. That the delay to execute the eviction order is not intentional.

This court has considered the application and the submissions therein. I have perused the court file and indeed on the 20th March 2019 this court did issue an eviction order which was to be stayed for 6 months. There seems to be some confusion on which police station is to execute the order. I order that the eviction order to be amended to read OCS Shinyalu Police Station. There will be no orders as to costs for this application.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA THIS 28TH DAY OF JULY 2020.

N.A. MATHEKA

JUDGE