

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO. 155 OF 2015

WILSON NDIRANGU MURUTHI.....PLAINTIFF

VERSUS

CHARLES SAMERI MUKURIA.....DEFENDANT

RULING

(Application for eviction; judgment already entered for the applicant; respondent not vacating the suit land; application allowed and eviction order issued)

1. The application before me is that dated 4 March 2019 filed by the plaintiff. He has asked for an order of eviction to have the defendant move out of the land parcel Kijabe/Kijabe Block 1/3757 (the suit land) and further orders to have the eviction order enforced by Tango Auctioneers with the OCS Mai Mahiu providing security.
2. The applicant filed this suit on 5 June 2015 and averred to be the lawful owner of the suit land. He claimed that the defendant/respondent had trespassed into it and developed a structure. In the suit he asked for a declaration that he is the rightful owner of the suit land, a permanent injunction, and a mandatory injunction to compel the respondent to demolish and remove all structures erected on the suit land. The respondent entered appearance but filed no defence. I heard the case and entered judgment for the applicant on 26 June 2018. I found that the applicant is the rightful owner of the suit land and granted the respondent 30 days to remove himself and all his developments on the suit land. In this application, the applicant has averred that despite the judgment, the respondent has been adamant and has refused to vacate the suit land.
3. No response was filed to this application despite the same being served upon counsel for the respondent.
4. There is already judgment in favour of the applicant and it appears as if the respondent has not adhered to the terms of the judgment and has refused to vacate the suit land. There is no other option to have the applicant enjoy the fruits of his judgment other than having the respondent forcefully evicted. I have no reason to deny the applicant what he has asked for in this application. ‘
5. I therefore allow the application. I issue an order for the eviction of the respondent from the land parcel Kijabe/Kijabe Block 1/3757. The eviction order may be executed by M/s Tango Auctioneers or any other auctioneer or court broker that the applicant may appoint. I further order the OCS of Mai Mahiu police station to supervise the eviction and provide adequate security to the auctioneer/court broker and further ensure that peace and order is maintained during the eviction exercise.
6. The respondent shall shoulder the costs of this application and all the costs that the applicant may incur in executing the eviction order.
7. Orders accordingly.

Dated, signed and delivered in open court at Nakuru this 28th day of March 2019.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU

In presence of : -

Ms. Kinuthia for the applicant.

No appearance on the part of M/s Mutinda & Co. for the defendant/respondent.

Court Assistant: Nelima Janepher