



**Mbogo v Kathuri (Civil Appeal 45 & 54 of 2015 (Consolidated))  
[2018] KEHC 6096 (KLR) (19 June 2018) (Ruling)**

*Joseph Njeru Mbogo v Lilian Wangai Kathuri [2018] eKLR*

Neutral citation: [2018] KEHC 6096 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT EMBU  
CIVIL APPEAL 45 & 54 OF 2015 (CONSOLIDATED)**

**FN MUCHEMI, J**

**JUNE 19, 2018**

**BETWEEN**

**JOSEPH NJERU MBOGO ..... APPELLANT**

**AND**

**LILIAN WANGAI KATHURI ..... RESPONDENT**

**RULING**

1. The applicant seeks for orders that the judgment of this court delivered on 16/08/2017 be rectified to indicate who was to be evicted from L.R. No. Gaturi/Githimu/ 5831.
2. The grounds supporting the application are that the applicant and the respondent had filed separate appeals which were consolidated. The appeal were No. 45 of 2015 and 54 of 2015 both against the judgment of Embu Principal Magistrate in CMCC No. 116 of 2014. In the judgment the court gave an eviction order against the “appellant” which seems to have confused the parties since there were two separate appeals by each of the parties in CMCC No. 116 of 2014.
3. The respondent did not oppose the application.
4. Reference to paragraph 2 of the judgment shows that after consolidation of the appeals No. 45 of 2015 was retained as the number of the appeal. It is further indicated that the appellant in Appeal No. 45 of 2015 Joseph Njeru Mbogo was the appellant for purposes of this appeal while the appellant in Appeal No. 54 of 2015 Lillian Wangai Kathuri was to be the respondent. This status in the appeal was so far clear in this appeal and does not raise any confusion.
5. The court noted that the judgment of the learned magistrate was to the effect that L.R. Gaturi/ Githimu/ 5831 was the property of the appellant. This finding was upheld b this court. On that



basis, an eviction order was issued against the respondent Lillian Wangai Kathhuri to vacate from the matrimonial home which sits on L.R. Gaturi/Githimu/5831.

6. Due to a topographical error, it was indicated that the “appellant” was to be evicted from the land. It ought to have been the respondent to be evicted who lost the appeal in this regard.

7. I find the application merited and allow it as follows:-

That paragraph 33 of the judgment is hereby amended to read “respondent” in place of appellant.

8. The order of the court shall read:

In effect I hereby order that an eviction order is hereby issued against the respondent to vacate L.E. No. Gaturi/ Githimu/5831 within a period of 60 days.

9. Paragraph 33 is therefore amended accordingly.

10. There will no orders as to costs.

11. It is hereby so ordered

**DELIVERED, DATED AND SIGNED AT EMBU THIS 19TH DAY OF JUNE, 2018.**

**F. MUCHEMI**

**JUDGE**

In the presence of:-

Ms. Waigwa for Anne Thungu for Appellant

Appellant present

