



Rufus & another v Kirima alias George Kirima Mugambi (Environment & Land Case 95 of 2013) [2023] KEELC 21949 (KLR) (29 November 2023) (Ruling)

Neutral citation: [2023] KEELC 21949 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT & LAND CASE 95 OF 2013
CK NZILI, J
NOVEMBER 29, 2023**

BETWEEN

GLORY NKUENE RUFUS 1ST PLAINTIFF

MARTIN KOOME KIAMBATI 2ND PLAINTIFF

AND

GEORGE KIRIMA ALIAS GEORGE KIRIMA MUGAMBI DEFENDANT

RULING

1. By notice of motion dated 15.2.2023, the court is asked to order the OCS Kiirua Police Station to facilitate the delivery of vacant possession of LR No. Kiirua/Naari/Maitai/59. The grounds are set out on the face of the application and in a supporting affidavit of Martin Koome Kiambati.
2. The applicant states that judgment was delivered on 13.7.2022, but the respondent has failed to honor it by giving up vacant possession. Instead, he continues to reap rental benefits from third parties.
3. In reply to the application, the respondent says no three-month notice has been given to him and has acquiesced to his occupation; he was a law-abiding citizen; the application was brought with ulterior motives to gain collateral advantage and, therefore, was unmerited.
4. In the judgment delivered on 13.7.2023, a permanent injunction was issued against the respondent for trespassing or interfering with the applicant's quiet enjoyment and occupation of the suit premises. Ownership of the suit land by the applicant was also determined.
5. By a ruling dated 15.2.2022, this court declined to stay the decree dated 2.8.2022, whose effect was for the respondent to deliver up vacant possession forthwith and as is indicated above, restrained the respondent from entering or interfering with the land. Court orders are not made in vain. It is over a year after the decree was issued. No just cause has been given as to why the respondent, with impunity,



has refused to honor the decree and give vacant possession or to stop any acts of trespass or interference with the suit land. See *David Oyiare Ntungani v Matuiya Ole* (2019) eKLR.

6. In the absence of stay orders, I allow the application. The respondent shall hand over to the plaintiffs/applicants vacant possession of LR No. Kiirua/Naari/Maitai/59 within seven days, in default of which he shall be evicted at his own cost and expenses.
7. The OCS Kiirua Police Station, for purposes of order and peace, will assist in evicting the defendant/respondent from the parcel of land known as LR No. Kiirua/Naari/Maitai/59. The respondent shall meet the costs of this application and the expenses of the exercise.

DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU ON THIS 29TH DAY OF NOVEMBER 2023

HON. CK NZILI

JUDGE

In presence of

C.A Kananu/Mukami

Parties

Gikundi for the plaintiff

Wambua for defendant

