



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT ELDORET**

**ELC CASE NO. 113 OF 2016**

**PRISILA JESONDIN CHUMO.....PLAINTIFF**

**VERSUS**

**NELLY JEBOR ALIAS NELLY CHEBOR.....DEFENDANT**

**RULING**

1. This is a ruling in respect of a Notice of Motion dated 15/9/2020 in which the Plaintiff/Applicant seeks orders of eviction and demolition of the Defendant/Respondent's structures on LR. No. Turbo East/Sosiani Block 1 (Sugoi) 12. (Suit Property).
2. The court delivered a judgment in favour of the Applicant on 17/4/2017. The Respondent was granted 45 days within which she was supposed to move out of the suit property failing which she was to be evicted from the same.
3. The Respondent has since filed two applications seeking to have the execution of the decree stayed but the two applications have been dismissed by the court. The Applicant contends that the Respondent did not prefer any appeal against the judgment and she therefore has no basis for remaining on the suit property.
4. The Respondent opposed the application through a replying affidavit sworn on 19/10/2020. The Respondent contends that she has filed objection proceedings in the High Court in which she is challenging the grant through which the Applicant was registered as owner of the suit property through transmission and that it will therefore be fair that execution be held in abeyance pending the conclusion of the objection proceedings.
5. The Respondent argues that her children will be rendered destitute if she is evicted from the suit property.
6. The Applicant filed written submissions in respect of the application on 20/1/2021. The Respondent was given 14 days from 19/10/2021 within which to file submissions. As at 2/1/2022 when writing this ruling, the Respondent had not filed submissions and if any were filed, they are not in the file.
7. I have considered the Applicant's application as well as the opposition to the same by the Respondent. I have also considered the submissions by the Applicant. There is no doubt that there is a decree in favour of the Applicant. The Respondent was given 45 days within which to vacate the suit property from 17/4/2017. The court decreed that eviction orders were to issue if she did not vacate the suit property.
8. The Respondent did not prefer any appeal against the judgment. She has unsuccessfully tried to have the execution process stayed. This being the case and the children of the Applicant's deceased son through Hellen Chepkosgei having been taken care of in the High Court succession case, I do not see any reason why the decree should not be executed.
9. I allow the application dated 15/9/2020 in the following terms:-
  - a.) *An order of eviction is hereby granted ordering the eviction of the Respondent from LR Turbo East/ Sosiani Block 1 (Sugoi) 12.*
  - b.) *The Respondent is ordered to demolish her structures on LR Turbo East/Sosiani Block 1(Sugoi) 12 within 30 days failing which the same shall be demolished by the Applicant at the cost of the Respondent.*
  - c.) *If the Respondent does not vacate LR Turbo East/Sosiani Block 1 (Sugoi) 12 within 30 days, eviction and demolition of the structures shall be effected under the supervision of the OCS Turbo Police Station.*
  - d.) *The Applicant shall have the costs of this application.*

It is so ordered

**DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 27TH DAY OF JANUARY 2022.**

**E. OBAGA**

JUDGE

27.01.2022

In the virtual absence of parties who were aware of the date of delivery of Ruling.

Court Assistant – Mercy

**E. OBAGA**

JUDGE

27/1/2022