

REPUBLIC OF KENYA

IN THE HIGH COURT AT KISUMU

CIVIL CASE NO. 189 OF 1988

BETWEEN

ALBERT OBIAYO MWASIPLAINTIFF

AND

OKORO ASIKOYE DEFENDANT

RULING

1. The application before the court is to set aside an eviction order. It is dated 4th June 2016. The applicant seeks to set aside an order issued by **Khamoni J.**, on 12th October 1992 wherein he ordered that **ALBERT OBIAYO MWASI** vacate the land parcel known as **WESTBUNYORE/ITUMBU/194** within 3 months from that date.
2. According to the proceedings the dispute was arbitrated by the area District Officer, the elders and the decision adopted by the court. The plaintiff applied to set aside the award but the same was dismissed by the court on 5th February 1991. The parties have appeared in court today and they are very old men. They pleaded their respective cases. The plaintiff prayed for a chance to be heard the application to set aside the eviction order while the defendant stated that litigation was finalised and that the plaintiff has not vacated the land as ordered.
3. Looking at the matter, I must say that this is a case where litigation must come to an end. For 24 years to elapse before seeking a stay is an inordinately long time and indeed prejudicial to the other party. Whatever the reasons, the plaintiff knew there was an order against him and that he was expected to vacate the land. He cannot wake up after 24 years to seek a stay pending the setting aside of order of eviction.
4. As regards the aspect of setting aside, the only issue that the applicant has raised is one of eviction. He claims that he was not given notice of eviction. He does not dispute the matter is finalised. He must now be told in no certain terms that he must leave the land.
5. I therefore dismiss the application dated 16th June 2016.

DATED, SIGNED and DELIVERED at KISUMU this 29th June 2016.

D. S. MAJANJA

JUDGE