



No.177/2014

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CIVIL SUIT NO.112 OF 2004

DOROTHY MUMBUA KATUU.....PLAINTIFF

VERSUS

KAMENE SYOVILIDEFENDANT

RULING

1. By an application dated **9th December, 2013** the Applicant/Plaintiff/Decree holder seeks this courts order directing the **Officer incharge** of the **Kenya Police Services** and **Administration Police** at **Nzaui Sub-County, Makueni (Matiliku)** to provide security to the **Bailiff/Eastern Kenya Auctioneers**) while enforcing an eviction order issued herein on the **17th September 2012**.
2. The application is premised of grounds that he plaintiff herein is the owner of the parcel of land known as **Nzaui/Ikangavya/557** measuring **4.4 Hectares**; she sued the Defendant/Respondent. Judgment in the matter was delivered on the **29th May 2008**; an eviction order having been issued the respondent and her family are likely to resist eviction. Notices issued to the defendant to vacate the suit premises voluntarily had been disobeyed.
3. The application is supported by an affidavit deposed by the applicant who reiterates what is stated in the body of the application.
4. This suit proceeded to formal proof after the Respondent failed and/or neglected to enter appearance. On **29th May, 2008 Lenaola, J** delivered a judgment where he made a finding that the Applicant is the registered proprietor of the suit premises. He ordered that the Respondent be evicted from the suit premises. A permanent injunction was also issued restraining the Respondent from interfering with the suit premises. Consequently on eviction order did issue.
5. It has been stated that the eviction notice was served on the Respondent but she refused to leave the suit premises. However, none of the alleged notices were attached to the application. This is evidence that due process was not followed as alleged. This is a case where the Respondent appeared in court on being served with the instant application, she possessed the documents but did not seem to understand what had transpired.
6. In the premises, I do order as follows:-
 - i. **Three (3) months' notice** to vacate from the suit premises shall be served upon the respondent.
 - ii. Failure to comply with the notice will result into the Respondent being evicted from the suit premises as ordered. In the premises the **Officer In charge** of **Kenya Police Services** and **Administration Police** at **Nzaui (Matiliku)** shall provide security to the Court bailiff to execute

- the order.
- iii. Costs of the eviction shall be borne by the applicant.
 - iv. It is so ordered.

DATED, DELIVERED and SIGNED this **22nd** day of **JANUARY, 2014**.

L.N. MUTENDE

JUDGE