



**Ngunjiri & another v Karanja (Environment and Land Case Civil Suit 458 of 2007) [2022] KEELC 27 (KLR) (26 April 2022) (Ruling)**

Neutral citation: [2022] KEELC 27 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND CASE CIVIL SUIT 458 OF 2007**

**SO OKONG'O, J**

**APRIL 26, 2022**

**BETWEEN**

**NJUGUNA NGUNJIRI ..... 1<sup>ST</sup> PLAINTIFF**

**AGNES MUMBI NGUNJIRI ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**JOYCE NYAKERU KARANJA ..... DEFENDANT**

**RULING**

1. As I stated in my ruling of October 14, 2021, on 24<sup>th</sup> October, 2002, judgment was entered herein in favour of the plaintiffs against the defendant in which the court declared the defendant a trespasser on all those parcels of land known as Ruiru/township/513 and Ruiru/township/514 (hereinafter referred to as “the suit properties”) and ordered the defendant to vacate the same within 3 months from the date of the judgment in default of which she be evicted. The defendant did not vacate the suit properties within the period that was prescribed by the court.
2. On January 12, 2004, the plaintiffs applied for execution of the decree against the defendant. A notice to show cause was issued and served upon the defendant to appear in court and show cause why she should not be evicted from the suit properties. The defendant did not show cause and on February 26, 2014, the court ordered that the defendant be evicted from the suit properties. On 3<sup>rd</sup> March, 2004, the court issued an eviction warrant to Francis Muchiri Gikanga of Expeditious General Merchants & Court Bailiffs authorizing him to evict the defendant from the suit properties. The said court bailiffs did not execute the eviction warrant. On November 2, 2004, another warrant was issued to Joseph Ndirangu Nderitu of Jogan Dries Services Auctioneers & Court Bailiffs. This second Court Bailiff also appears not to have executed the said eviction warrants.
3. What is now before the court is a Notice of Motion application dated December 10, 2020 brought by the plaintiffs seeking the following orders;



1. Spent;
  2. That the firm of Mwaniki Mwarima & Company Advocates be granted leave to come on record for the plaintiffs in place of Kihara Muttu & Co. Advocates;
  3. That the Honourable Court be pleased to reissue the eviction orders directing Vintage auctioneers/bailiffs to put Njuguna Ngunjiri and Agnes Mumbi Ngunjiri the decree holders in possession of Plot No. Ruiru/township/513 and Ruiru/township/514 (the suit properties) and authorize the removal of Joyce Nyakeru Karanja and any other person bound by the decree who has refused to vacate the same.
  4. That OCS Ruiru police station provide security during eviction of the defendant and/or any other persons on the suit premises.
  5. That costs of this Application be provided for.
4. The application which is based on the grounds set out on the face thereof and on the affidavit of the plaintiffs' advocate Mwaniki Warima sworn on December 10, 2020. The plaintiffs have averred that the plaintiffs' previous advocate Kihara Muttu Advocate of Kihara Muttu & Company Advocates and the auctioneer who was instructed to evict the defendant from the suit properties, Francis Muchiri Gikanga t/a Expeditious General Merchants & Court Bailiff died before the eviction was carried out.
5. The application was served upon the defendant's advocates on record on December 1, 2021 and an affidavit of service filed in court. The defendant did not oppose the application. When the application came up for hearing on March 15, 2022, the plaintiffs' advocate told the court that he wished to rely entirely on the affidavit in support of the application. I have considered the plaintiffs' application together with the affidavit filed in support thereof. Since the advocate previously acting for the plaintiffs is deceased, the plaintiffs have a right to be represented by another advocate. The leave sought for the firm of Mwaniki Mwarima & Company Advocates to come on record for the plaintiffs in place of Kihara Muttu & Co. Advocates is therefore merited. With regard to the other reliefs, it is not disputed that the plaintiffs have a decree issued by this court for possession of the suit properties. It is also not disputed that the decree has not been varied or set aside. It is also not disputed that the plaintiffs have to date not been given possession of the suit properties by the defendant. The defendant was served and has not responded to the application. In the absence of such response, the only conclusion the court can make is that there is no reasonable cause why the defendant has refused to comply with the decree of this court. Due to the foregoing, I find merit in the plaintiffs' application. The application is allowed on the following terms;
1. The firm of Mwaniki Mwarima & Company Advocates is granted leave to come on record for the plaintiffs in place of Kihara Muttu & Co. Advocates;
  2. The Deputy Registrar of this court shall re-issue eviction warrant to a licensed auctioneer trading as Vintage Auctioneers/Bailiffs whose name and current practice licence shall be furnished to the court before the warrant is issued commanding him to put Njuguna Ngunjiri and Agnes Mumbi Ngunjiri the decree holders herein in possession all those parcels of land known as Plot No. Ruiru/township/513 and Ruiru/township/514 and to remove therefrom Joyce Nyakeru Karanja the judgment debtor herein and any other person bound by the decree who may refuse to vacate the properties.
  3. The Officer Commanding Ruiru Police Station shall provide security during the eviction of the defendant from the suit properties.



4. The plaintiffs and the auctioneers shall comply fully with the provisions of section 152G of the [Land Act 2012](#) while carrying out the eviction of the defendant.
5. The plaintiffs shall have the costs of the application.

**DATED AND DELIVERED AT NAIROBI THIS 26<sup>TH</sup> DAY OF APRIL 2022**

**S. OKONG'O**

**JUDGE**

**Ruling delivered virtually through Microsoft Teams Video Conferencing Platform in the presence of:**

Ms. Giteru h/b for Mr. Mwaniki for the Plaintiff

N/A for the Defendant

Ms. C. Nyokabi - Court Assistant

