



REPUBLIC OF KENYA



**KENYA LAW**  
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**Sarago v County Secretary, Kajiado County Government... & another (Environment & Land Case 616 of 2017) [2022] KEELC 3168 (KLR) (15 June 2022) (Ruling)**

Neutral citation: [2022] KEELC 3168 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE 616 OF 2017  
MN GICHERU, J  
JUNE 15, 2022**

**BETWEEN**

**ROSE MUTHONI SARAGO ..... JUDGMENT DEBTOR**

**AND**

**EUNICE NJAMBI WANGORA. .... 1<sup>ST</sup> DECREE HOLDER**

**COUNTY SECRETARY, KAJIADO COUNTY GOVERNMENT... .... 2<sup>ND</sup> DECREE  
HOLDER**

**RULING**

1. This ruling is on the Notice of Motion dated April 19, 2022. The said motion seeks the following orders;
  - i. That the court be pleased to issue an eviction order against the plaintiff, her agents, servants and or anybody claiming through her from Plot No. 1014/Residential Ongata Rongai.
  - ii. That the OCS Ongata Rongai Police Station do ensure compliance of these orders by ensuring peace prevails during the eviction process.
  - iii. Any other order the court may deem fit to grant.
  - iv. Costs.
2. The grounds for seeking the above orders include the following;
  - i. That there is judgment against the respondent.
  - ii. That she has deliberately refused, neglected and/or failed to cease from interfering with the suit plot despite court's judgment.



- iii. That the applicant's efforts to evict the plaintiff have become futile and now she and her agents and/or trespassers are threatening to harm the applicant.
  - iv. That the applicant has reported the incident to Ongata Rongai Police Station vide OB No. 62/16/2/2022 who advised her to come to Court and seek eviction orders as well as orders directing the OCS Ongata Rongai Police Station to ensure peace prevails during the eviction.
  - v. That unless the court interferes, the applicant is likely to lose the suit premises unlawfully to the respondent and her agents/trespassers.
3. Further to the grounds, the applicant has sworn a supporting affidavit dated April 19, 2022 reiterating the grounds and annexing the judgement dated 25/3/2019 and a copy of the OB report dated 16/2/2022.
  4. The application was served on 27/4/2022 according to an affidavit of service dated May 10, 2022. It has not been opposed because the respondent's counsel did not turn up or file a replying affidavit.
  5. I have carefully considered the application in its entirety including the affidavits grounds and annexures.

I find that though the application is fair and just, it needs to comply with section 152E of the Land Act (Act No. 6 of 2012).

The said provisions is as follows;

“ 152E. Eviction Notice to unlawful occupiers of private land.

1. If, with respect to private land the owner or the person in charge is of the opinion that a person is in occupation of his or her land without consent, the owner or the person in charge may serve on that person a notice of not less than three months before the date of the intended eviction.
  2. The notice under subsection (1) shall;
    - a. be in writing and in a national or official language;
    - b. in case of a large group of persons, be published in at least two daily newspaper of national wide circulation and be displayed in not less than five strategic locations within the occupied land;
    - c. specify any terms and conditions as to the removal of buildings, the reaping of growing crops and any other matters as the case may require; and
    - d. be served on the deputy county commissioner in charge of the area as well as the officer commanding the police division of the area.
6. The need for compliance with the above law is necessary because of the following reasons;
    - i. Firstly, we do not know the number of people to be affected by the intended eviction. If the number is large, strict compliance with section 152E (2) (b) is necessary.
    - ii. Secondly, the judgment of March 25, 2019 did not specifically order for the eviction of any person especially those to be affected by the intended eviction.
    - iii. I direct that the Applicant strictly complies with section 152E of the Land Act.



**DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 15<sup>TH</sup> DAY OF JUNE, 2022.**

**M.N. GICHERU**

**JUDGE**

