



**Rugo & another v Muraguri (Environment & Land Case
79 of 2012) [2022] KEELC 15700 (KLR) (15 July 2022) (Ruling)**

Neutral citation: [2022] KEELC 15700 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERUGOYA
ENVIRONMENT & LAND CASE 79 OF 2012
EC CHERONO, J
JULY 15, 2022**

BETWEEN

RICHARD MUGO RUGO 1ST PLAINTIFF

JOTHAM MAINA RUGO 2ND PLAINTIFF

AND

GC MURAGURI DEFENDANT

RULING

1. The Defendant herein moved this Honourable Court vide a Notice of Motion dated May 12, 2022 seeking the following orders;
 1. This Honourable Court be pleased to grant orders of eviction against the Respondent herein, Richard Mugo from the Applicant's suit premises known as LR KIINE/RUIRU/525.
 2. That the Honourable Court do grant orders to Mr Charles Wairagu of M/S Hippo Auctioneers to conduct the eviction exercise and in satisfaction of the orders granted herein.
 3. That the Officer Commanding Baricho Police Station (OCS) be ordered to offer security to the Auctioneers in carrying out the exercise and to maintain law and order.
 4. Cost of this application be awarded to the Applicant.
2. The application is supported by grounds on the face of the said application and the affidavit of the defendant/applicant sworn the same date. The application is opposed with a replying affidavit sworn by the plaintiff/Respondent on May 23, 2022.



3. According to the Applicant/JC, Judgment was given by this Court in his favour on March 9, 2019 and the Respondent/JD filed an application for stay of execution which was dismissed on October 15, 2019. The Applicant further stated that in the impugned judgment delivered on March 9, 2019, this Honourable Court also gave the respondent/JD six months to vacate the suit premises but he has failed/refused to vacate thereby necessitating the present application. He stated that it is in the interest of justice that the application is granted so that the dignity of the Court is restored and he can enjoy the fruits of his judgment.
4. The Respondent/JD in his replying affidavit deposed that after judgment was delivered by this Honourable Court on March 8, 2019, he preferred an appeal on March 13, 2019 and that this application should be held in abeyance until the hearing and determination of his appeal.
5. I have considered the said application, the affidavits both in support and in opposition as well as the applicable law.
6. Order 42 Rule 6 of the Civil Procedure Rules provide terms and conditions under which an applicant/JD who is dissatisfied with an order/Decree issued by a Court of competent Jurisdiction must satisfy before stay of execution is granted. The Applicant/JC has stated that the respondent/JD made an application for stay of execution of the impugned judgment but the application was dismissed on October 15, 2019.
7. I have looked at the court record and find that there is judgment and Decree issued by this Honourable Court on March 8, 2019. There is no order issued by this Honourable Court or the superior court staying the execution of the Decree. As such, I find the application dated May 12, 2022 merited and the same is hereby allowed as prayed. It is so ordered.

**RULING READ, DELIVERED AND SIGNED IN THE OPEN COURT AT KERUGOYA THIS
15TH JULY, 2022.**

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HON. E.C. CHERONO

ELC JUDGE

