

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 54 OF 2007

MBAYA MUNGANIA.....PLAINTIFF/APPLICANT

VERSUS

KAIMURI MUNGANIADEFENDANT/RESPONDENT

RULING

1. Before me is an application dated 2.2.2020 where the applicant/defendant is seeking the following orders:

(i) That this honorable court be pleased to issue an order for eviction against the plaintiff/respondent Mbaya Mungania his family, servants, agents or any other persons living/inhabiting land parcel no. Kiirua/Ruiru/3802, 3803 and 3804 on his behest.

(ii) That the honourable court be pleased to issue orders lifting the cautions and any other restriction and inhibitions placed on the land parcel no. Kiirua/Ruiru/3802, 3803 and 3804.

(iii) That costs for this application be provided for.

2. The applicant avers that this is a concluded matter where plaintiff's claim was dismissed and he should therefore vacate and move to parcel no. 3711 which he was given by his father.

3. No response was filed in respect of the application.

4. I find that the orders sought for eviction ought to flow from a court's determination. As such, the substantive orders of eviction cannot be issued when there is no suit. Likewise, the orders sought in prayer (2), are unmerited as no restrictions and inhibitions were issued by this court during the lifespan of the suit.

5. The application dated 21.2.2020 is dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT MERU THIS 3RD DAY OF FEBRUARY, 2021

HON. LUCY. N. MBUGUA

ELC JUDGE

ORDER

The date of delivery of this Ruling was given to the advocates for the parties through a virtual session via Microsoft teams on 28.10.2020. In light of the declaration of measures restricting court operations due to the *COVID-19 pandemic* and following the practice directions issued by his Lordship, the Chief Justice dated 17th March, 2020 and published in the Kenya Gazette of 17th April 2020 as Gazette Notice no.3137, this Ruling has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the *Civil Procedure Rules* which requires that all judgments and rulings be pronounced in open court.

HON. LUCY N. MBUGUA

ELC JUDGE