



REPUBLIC OF KENYA



**Wekesa & another v Tanui (Environment & Land Miscellaneous Case
E013 of 2025) [2025] KEELC 3520 (KLR) (5 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3520 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT & LAND MISCELLANEOUS CASE E013 OF 2025**

GMA ONGONDO, J

MAY 5, 2025

BETWEEN

TIMOTHY WANJALA WEKESA 1ST APPLICANT

TIMPECH AUCTIONEERS 2ND APPLICANT

AND

KIPRUTO TANUI RESPONDENT

RULING

1. The instant ruling is in respect of an application dated 17th March 2025 by the applicant through Kipngeno and Associates Advocates for the following orders;
 - a. This Honourable Court be pleased to Order the Officer Commanding Station (OCS) Kapsabet town Police Station to provide adequate security to TIMPECH AUCTIONEERS, the Applicant herein while executing the decree and eviction Orders herein the same dated 14th February, 2024 by the Court on the 1st April, 2025 and/or any day thereafter.
 - b. Any other Orders deemed fit by court.
 - c. Costs be provided for.
2. The application is premised upon the applicant's supporting affidavit together with the accompanying documents inclusive of the Judgment delivered on 14th February 2024 and the notice dated 22nd May 2024 herein. Also, the same is founded on the grounds, inter alia;
 - a. There is a Court Order dated 14th February, 2024 in favour of the plaintiff ripe for execution and the same is yet to be executed.
 - b. The Defendant, despite being ordered by this Court vide a permanent injunction, not to continue being in physical possession of the suit property, he has not complied with the



said Orders which occupation is prejudicial to the plaintiff decree holder, prompting this application.

3. The respondent was duly served with the application as disclosed in the affidavit of service sworn on 1st May 2025 herein.
4. Mr Maritim instructed by Mr Kipngeno learned counsel for the applicant has urged the court to grant prayer number two in the application.
5. In that regard, is there merit in the application?
6. The respondent having been made aware of the existence of the application, opted not to respond to the same as noted by the Court of Appeal in *Ogada-vs-Mollin* (2009) eKLR.
7. The applicant's lamentation is that the respondent has neglected to comply with the orders of the court given on 14th February 2024 which are due for execution.
8. This application does not relate to a stale claim; see *Mehta -vrs- Shah* (1963) EA 321. So, the applicant is entitled to the decree which has to be made effectual.
9. In the premises, the application is steadfast, cogent and meritorious.
10. Accordingly, the application is hereby allowed in terms of the second order sought therein as set out in paragraph 1 (a) hereinabove.
11. It is so ordered.

DATED AND DELIVERED AT KAPSABET THIS 5TH DAY OF MAY 2025.

G M A ONGONDO

JUDGE

Present;

1. Mr. Maritim holding brief for Kipngeno for applicant.
2. Respondent absent

