



REPUBLIC OF KENYA



**Maroro v Omwoyo & 3 others (Environment & Land Case
1121 of 2016) [2024] KEELC 1223 (KLR) (5 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1223 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISII
ENVIRONMENT & LAND CASE 1121 OF 2016**

M SILA, J

MARCH 5, 2024

BETWEEN

THOM SAMUEL MARORO PLAINTIFF

AND

ISAAC MAGANGI OMWOYO 1ST DEFENDANT

JOSEPH OENGA OMWOYO 2ND DEFENDANT

EVANS NYABONI OMWOYO 3RD DEFENDANT

SABINA OMWOYO 4TH DEFENDANT

RULING

(Application for an eviction order; judgment entered in favour of the applicant for vacant possession; defendants yet to give vacant possession; eviction order issued)

1. The application before me is that dated 9 November 2023 filed by the plaintiff/deed holder. The applicant seeks an order of eviction to evict the defendants/respondents from the land parcels Majoge/Boochi/2342 and 2343 (the suit properties). The applicant also seeks to have the eviction order executed by Josephat Nyachoti T/A Minimax Auctioneers and for the Officer Commanding the Ogembo Police Station to provide security and oversee the eviction process. He seeks that the costs of the eviction amounting to Kshs. 200,000/= and the costs of this application to be shouldered by the respondents. The application is based on the grounds inter alia that the applicant has a judgment in his favour delivered on 21 February 2020 which directed the respondents to give vacant possession of the suit properties within 60 days which the respondents have not complied with.
2. Despite being served with the application, the respondents filed no reply to it.
3. I have gone through the record. I see that the applicant sued the respondents over the suit properties and after hearing the suit judgment was delivered on 21 February 2020 by Onyango J. She found that



the respondents were in trespass of the suit properties and ordered them to vacate and deliver vacant possession to the applicant within 60 days of the judgment, failing which, an eviction order for their forcible removal would issue on application by the plaintiff. She also issued an order of permanent injunction against the respondents and made an award of Kshs. 200,000/= as general damages for trespass together with costs of the suit. It is apparent that the respondents have refused to satisfy the judgment hence this application.

4. Given that there is already judgment in favour of the applicant, I have no reason to decline this application. The only way that the applicant can enjoy the fruits of the judgment is by issuing him with the eviction order sought so that the respondents can be removed from the suit properties. I thus allow the application. I issue an order for the eviction of the defendants/respondents from the land parcels Majoge/Boochi/2342 and 2343. The eviction order to be executed by an authorized court broker of the applicant's choice. I also order the OCS Ogembo Police Station to provide the requisite security during the eviction exercise. The entire costs of the eviction be shouldered by the respondents. The respondents will also pay the costs of this application.
5. Orders accordingly.

DATED AND DELIVERED THIS 5TH DAY OF MARCH 2024

JUSTICE MUNYAO SILA

JUDGE, ENVIRONMENT AND LAND COURT

AT KISII

Delivered in the presence of :

Mr. Momanyi Aunga for the applicants

No Appearance on the part of M/s O.M Otieno & Company Advocates for the respondents

Court Assistant – David Ochieng'

