



Shundur v Rigogo Chonjo Company Ltd & 3 others (Being Former Chairperson, Current Chairperson and Former Member, Respectively, of Chepnyaliliet Self Help Group) (Environment & Land Case 9 of 1993) [2024] KEELC 4429 (KLR) (4 June 2024) (Ruling)

Neutral citation: [2024] KEELC 4429 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KERICHO
ENVIRONMENT & LAND CASE 9 OF 1993**

LA OMOLLO, J

JUNE 4, 2024

BETWEEN

DAVID KAPOLONTO SHUNDUR PLAINTIFF

AND

RIGOGO CHONJO COMPANY LTD 1ST DEFENDANT

JOSEPH ITUR 2ND DEFENDANT

SAMUEL KIPLANGAT 3RD DEFENDANT

JOSPHAT NGETICH 4TH DEFENDANT

**BEING FORMER CHAIRPERSON, CURRENT CHAIRPERSON AND
FORMER MEMBER, RESPECTIVELY, OF CHEPNYALILIET SELF HELP
GROUP**

(Being former Chairperson, Current Chairperson and former member, respectively, of Chepnyaliliet Self Help Group)

RULING

1. The Application under consideration is dated 17th April, 2024.
2. The said application is in the nature of a post judgement application and seeks orders that;
 1. The application be heard ex-parte on priority basis.
 2. This court be pleased to order the OCS Melelo police station to provide adequate security to M/s Indomitable Auctioneers and/or his agents to evict, demolish all structures and restrain the Defendants Joseph Kitur, Samuel Kiplangat, Joseph Ngetich and all members



of Chepnyaliliet Self Help group and their agents, servants, representative, waters and/or employees from the Plaintiff parcel of land namely Narok/CIS-Mara/Olulunga 134.

3. This Honourable court be pleased to order the OCS Meleli police station to provide adequate security to M/S Indomitable Auctioneers during the attachment of the properties of the Defendants Joseph Kitur, Samuel Kiplangat, Joseph Ngetich and all the members of Chepnyaliliet Self Help Group and their agents, servants, representatives, workers and/or employees being on Plaintiff's parcel of land namely Narkok/CIS-Mara/Olulunga/134
3. The application was served on the Respondents as evidenced in the affidavits of service sworn on 20th May, 2024 by Chelule Vincent Lelgo. The 3rd Respondent filed replying affidavit sworn on 9th May, 2024.
4. The 3rd Respondent deposes that a similar application was filed on 2nd November, 2023 and that the court delivered a ruling dated 11th April, 2024. The 3rd Respondent also deposes that this application is res judicata.
5. The 2nd- 4th Respondent have also filed submissions. There were no directions that parties file submissions. The Applicant has not responded to the said submissions and I decline to take them into consideration.
6. In determining this application I shall take into consideration the affidavit in support of the application and the 3rd Respondent's Replying Affidavit.
7. I have perused the court record and I have seen an application dated 2nd November, 2023. It seeks the orders that
 1. This application be heard ex-parte on priority basis
 2. This Honourable court be pleased to order the officer commanding Olulunga and/or DAPC, Olulunga police post to provide adequate security to M/s Indomitable Auctioneers and/or his agents to evict, demolish all structures and restrain the Defendants Joseph Kitur, Samuel Kiplangat, Joseph Ngetich and all the members of Chepnyaliliet Self Help Group and their agents, servant's representatives, assigns workers and/or employees from the Plaintiff's land namely Narkok/CIS-Mara/Olulunga/134.
8. . This application was allowed on 9th November, 2023 and the order extracted on 10th November, 2023.
9. The 3rd Respondent is right to the extent that orders of eviction against the Defendants were already issued on 9th November, 2023.
10. It is also not in dispute that an attempt to stay this orders of 9th November, 2023 vide an application dated 24th November, 2023 was made. A ruling on this application was delivered on 11th April, 2024. At paragraph 22 of the ruling the Learned Judge states as follows; -

“The court having delivered itself wherein its orders had been perfected by an eviction orders (sic), I find that the court is now functus officio and the Applicants lack the Locus to bring the current Application. The Application dated 24th November, 2023 is herein dismissed with costs.”
11. .Importantly, the court observed that an eviction order was already issued.
12. . As previously stated, I have also confirmed that vide the orders of 9th November, 2024, the orders of eviction were granted and this application is therefore not necessary.



13. Consequently, the application dated 17th April, 2024 is hereby struck out.

14. It's so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KERICHO THIS 4TH DAY OF JUNE, 2024.

L.A. OMOLLO, JUDGE

4TH JUNE, 2024.

In the presence of;-

Miss Nyakundi for 2nd - 4th Respondents

Miss Chelimo for Migiro for the Applicant

Court Assistant; Mr. Joseph Makori

