



REPUBLIC OF KENYA



KENYA LAW
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**Lang'at v Watindi & 2 others (Civil Suit 176 of 2017)
[2024] KEELC 6772 (KLR) (15 October 2024) (Ruling)**

Neutral citation: [2024] KEELC 6772 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
CIVIL SUIT 176 OF 2017
EO OBAGA, J
OCTOBER 15, 2024**

BETWEEN

RODAH CHEPTONUI LANG'AT PLAINTIFF

AND

REV AGGREY WATINDI 1ST DEFENDANT

LOGOS REVIVAL MINISTRIES 2ND DEFENDANT

PRINCEDOM EDUCATION CENTRE 3RD DEFENDANT

RULING

1. This is a ruling in respect of a Notice of motion dated 29.4. 2024 in which the Plaintiff Decree Holder/ Applicant seeks the following orders:-
 - a. Spent
 - b. An order do issue that the structures erected and/or standing on land parcel number Eldoret Municipality Block 12/288 be demolished in the process of execution of the eviction orders dated 22nd April, 2024.
 - c. An order do issue directing the officer commanding station (OCS), Langas Police Station, to supervise the eviction of the defendants and demolition of the illegal structures erected on the land parcel number Eldoret Municipality Block 12/288.
 - d. Costs of this application be borne by the Defendants.
2. In a judgement delivered on 29.5.2019, the Applicant was declared as owner of L.R No. Eldoret Municipality Block 12/288 (suit property). The Judgement Debtors/Respondents were given 30 days to vacate the suit property, failing which an eviction order was to issue.



3. The Respondents failed to give vacant possession. The Applicant then moved the court for an eviction order which was granted. The Applicant proceeded to the suit property in a bid to evict the Respondents under supervision of the OCS Langas but the OCS found that there were structures on the suit property which needed to be demolished and an order to that effect was required from the court. It is on this basis that the Applicant moved to court seeking the orders set out in paragraph one hereinabove.
4. The Respondents opposed the Applicant's application based on a replying affidavit sworn on 3.5.2024. The Respondents contend that the application is incompetent and untenable; that parcel No. Eldoret Municipality Block 12/337 has never been subject of determination; that nowhere in the judgement has demolition of structures on parcel Number Eldoret Municipality Block 12/337 and 288 been made; that the Applicant is seeking review of the Judgment and decree; that there is no prayer for demolition in the plaint or decree itself; that the structures sought to be demolished are not on Eldoret Municipality Block 12/288; that there is no order of demolition on Eldoret Municipality Block 12/288; that there is no order of demolition on Eldoret Municipality Block 12/337 and that the application amounts to a review which has been brought too late.
5. At the hearing the Applicant's lawyer argued that it was necessary for the court to grant the orders as the OCS Langas Police Station could not supervise the demolition as there were structures which necessitated that an order be issued by the court sanctioning the demolition.
6. The counsel for the Respondents argued that the Applicant was seeking to review the judgment and that there was no need to involve Police in eviction as the role of the police in civil matters is to ensure security. He argued that eviction should be carried out by an auctioneer. He further stated that the Applicant wanted to use the eviction order to remove the Respondents from a different parcel.
7. In reply, the Applicant's counsel argued that the court has already made a ruling in respect of Eldoret Municipality Block 12/337 and 288.
8. I have considered the Applicant's application as well as the opposition to the same by the Respondents. The only issue for determination is whether the orders sought should be granted. There is no doubt that there is a judgement in favour of the Applicant. There is also no doubt that an eviction order has been issued by court. There is no stay of execution in force. This being the case, there is no reason why the Respondents should not be evicted.
9. Mr. Momanyi for the Respondents argued that the eviction order is targeting a different property and that there is need for a surveyor to go to the ground. This issue was addressed by the court in its ruling of 22.2.2024. Litigation has to come to an end. The Applicant is merely seeking to enforce a judgement of the court. I find that the Applicant's application dated 24.4.2024 is well founded. The same is allowed in its entirety. The eviction should be carried out after schools close for the Christmas holidays of 2024.

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 15TH DAY OF OCTOBER, 2024.

E. O. OBAGA

JUDGE

In the virtual presence of;

Mr. Momanyi for 1st Defendant.

Court Assistant –Laban



E. O. OBAGA

JUDGE

15TH OCTOBER, 2024

