



REPUBLIC OF KENYA



Marist Brothers Kenya (Registered Trustees) v Nyariara & another (Environment & Land Case 816 of 2017) [2023] KEELC 628 (KLR) (7 February 2023) (Ruling)

Neutral citation: [2023] KEELC 628 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 816 OF 2017
MN GICHERU, J
FEBRUARY 7, 2023**

BETWEEN

MARIST BROTHERS KENYA (REGISTERED TRUSTEES) PLAINTIFF

AND

ANN NYARIARA 1ST DEFENDANT

NOAH MONERIA OLE KURRARU 2ND DEFENDANT

RULING

1. This ruling is on the Notice of Motion dated September 2, 2022. It is filed under Sections 1A, 1B, 3A of the [Civil Procedure Act](#), Order 51, Rule 1, [Civil Procedure Rules](#) and all enabling provisions of the law.
2. The Motion seeks two prayers namely.
 - a. Eviction of the Defendants from the Suit Land LR KJD/LOODARIAK/2235.
 - b. A break in order to enable the Plaintiff break the padlock to the suit land's gate.
 - c. The OCS Kiserian Police Station to provide adequate security during the eviction exercise.
 - d. Costs of the application.
3. The application is supported by an affidavit sworn by one Mark Enokwuru who says he is The Superior of the Applicant.

In the affidavit dated September 2, 2022, the deponent says that there is a judgment and decree in favour of the Applicant which ordered the eviction of the Defendants from the suit land and an order restraining them from ever entering the land. Despite the said orders, the Defendants have refused to leave the suit land voluntarily and only the current application will ensure the final execution of the decree.



4. The application, though served is unopposed. Service was on September 21, 2022 as per the affidavit of service filed in court on October 3, 2022.
5. Having considered the motion dated September 2, 2022, I find that it has merit because the judgment dated May 16, 2022 ordered the eviction of the Defendants from the suit land and for them to be restrained from entering the land again.

Consequently, I issue the following orders;

i.

Defendants to be evicted from the suit land.

ii.

No need of any further notice as the service on September 21, 2022 is sufficient notice.

iii.

OCS Kiserian Police Station to provide adequate security for the exercise of eviction.

iv.

Costs to the Applicant.

It is so ordered.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 7TH DAY OF FEBRUARY, 2023.

M.N. GICHERU

JUDGE

