



REPUBLIC OF KENYA



**KENYA LAW**  
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**Omurwa v Ongiri & 2 others (Civil Suit 429 of 2014)  
[2023] KEELC 18539 (KLR) (4 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18539 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISII  
CIVIL SUIT 429 OF 2014**

**M SILA, J**

**JULY 4, 2023**

**BETWEEN**

**BONIFACE JUMA OMURWA ..... PLAINTIFF**

**AND**

**PAUL ONCHIEKO ONGIRI ..... 1<sup>ST</sup> DEFENDANT**

**JONNES ONCHANI ONGIRI ..... 2<sup>ND</sup> DEFENDANT**

**MARIA MORAA ONGIRI ..... 3<sup>RD</sup> DEFENDANT**

*(Application by plaintiff seeking eviction orders; judgment given in favour of plaintiff but defendants given 60 days to vacate; defendants failing to vacate even after lapse of the 60 days; application for eviction allowed)*

**RULING**

1. The application before me is that dated June 16, 2023 filed by the successful plaintiff/decreed holder. He wishes to have an order of eviction against the respondents and for an order for provision of security, by the OCS Manga Police Station, to M/s Betico Auctioneers, who the applicant has appointed to undertake the eviction exercise. Nothing was filed by the respondents to oppose the motion and neither they, nor their counsel, appeared during the inter partes hearing of this application despite being duly served.
2. I have given the application due consideration.
3. The applicant had commenced this suit through a plaint filed on November 13, 2014. He averred to be the registered proprietor of the land parcel Central Kitutu/Mwamanwa/1616 (the suit land) and claimed that the defendants/respondents had illegally taken possession of it. In his plaint, he wished to have them evicted from the suit land and to be permanently restrained from it. The defendants filed a defence and counterclaim vide which they sought orders to nullify the title of the applicant. I heard the



case and delivered judgment on February 21, 2023. I allowed the plaintiff's prayer for eviction but gave the respondents 60 days to vacate the land, pull down whatever structures they have, and give vacant possession. I ordered that if they do not vacate willingly then the plaintiff was at liberty to have them forcefully evicted. I also awarded the plaintiff general damages for trespass of Kshs 300,000/=.

4. In this application, the applicant points out that the respondents were given 60 days from the date of judgment to give vacant possession but they have failed to do so. He also decries that the defendants have refused to settle the award for general damages. That is why he wants the orders herein.
5. I have no reason to deny the applicant the orders sought. The respondents were given sufficient time to give vacant possession but they have failed to do so. The only way that the plaintiff can get the benefit of his judgment is by having the respondents forcefully evicted.
6. I therefore allow this application. The plaintiff is at liberty to appoint an auctioneer/court bailiff of his choice to undertake the eviction exercise. I also order the OCS, Manga Police Station, to provide adequate security to the auctioneer/court bailiff while undertaking the eviction exercise.
7. The plaintiff will have the costs of this application and any costs that may be incurred during the eviction to be shouldered by the defendants.
8. Orders accordingly.

**DATED AND DELIVERED AT KISII THIS 4 DAY OF JULY 2023**

**JUSTICE MUNYAO SILA**

**JUDGE, ENVIRONMENT AND LAND COURT**

**AT KISII**

