



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT KISUMU**

**ELC CASE NO. 139 OF 2013**

**VINCENT SAMSON ODUOR.....PLAINTIFF**

**-VERSUS-**

**DISMAS OTIENO OGOYA.....DEFENDANT**

**RULING**

Vincent Samson Oduor (hereinafter referred as the decree holder) has come to court against Dismas Otieno Ogoya hereinafter referred to as the Judgment Debtor seeking an **eviction order to be issued against the defendant from parcel number north Ugenya/Sega/2066 by himself, his agents, servants and any other person claiming through him and Cancellation of the defendant's title deed nos, 2321, 2322 and 2323. Moreover, he seeks rectification of the cadastral map based at Siaya and insertion of the correct details as per the right title of North Ugenya/Ega/2066. Furthermore, he seeks cancellation of the defendant's green cards for the 2321, 2322 and 2323. Lastly, that the court does provide security and equipment during the eviction process and that the defendants do pay the cost of this application.** The application is based on grounds that:

- 1. A judgment was entered in his favour by the honourable Justice S. M. KIBUNJA on the 20<sup>th</sup> of February 2019 in the matter herein and a decree issued on the 13<sup>th</sup> day of March 2019.**
- 2. An intention to proffer an appeal from the decree was time barred and contrary to Section 79 (g) of the Civil Procedure Act.**
- 3. Todate no memorandum of appeal has been set forth signed or filled by the defendant.**
- 4. The issues and facts for determination were properly set forth by the court and determined within strict prove of facts.**
- 5. The court, in its considered opinion found the defendant to be a trespasser on the land parcel no. North Ugenya/Sega/2066 and was thereby ordered by himself and all other persons claiming through him to vacate the said land and give vacant possession to the plaintiff within 90 days.**
- 6. An eviction order be issued in default of the defendant not vacating the said parcel of land.**

The supporting affidavit reinstates the grounds of the application.

I have considered the application and do find that the same is merited only for eviction order. I do grant an eviction order against the defendant from parcel number north Ugenya/Sega/2066 with his agents, servants and any other person claiming through him. The applicant to give a one month notice.

I do decline to grant security to the applicant as he has not disclosed the police station that can be directed by the court to grant security. Costs to the applicant.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 30<sup>TH</sup> DAY OF JULY, 2021**

**ANTONY OMBWAYO**

**JUDGE**

This Ruling has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic and in the light of the directions issued by his Lordship, the Chief Justice on 15<sup>th</sup> March 2019.

**ANTONY OMBWAYO**

**JUDGE**