



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KISUMU**

**ELC 832 OF 2015**

**DELAMIER WAMBOGA WAMBOGO.....PLAINTIFF**

**VERSUS**

**ANANSTANSIA ALUOCH ANINO.....1<sup>ST</sup> DEFENDANT**

**OKELO ANINO.....2<sup>ND</sup> DEFENDANT**

**MARGARET EANDALA AMANJA.....3<sup>RD</sup> DEFENDANT**

**ABALE OWITI.....4<sup>TH</sup> DEFENDANT**

**RULING**

The Decree holder/applicant prays that the Respondents be ordered to give vacant possessions of Land Parcels Numbers NORTH GEM/MALUNGA/1308, 1297 and 1294 to the Applicant within 14 days from the date of this order failing which the Respondents be evicted therefrom.

An order of permanent injunction against the Respondents whether by themselves, servants, Agents, Employees/Workers or any other persons acting on their behalf from interfering with the Applicant's right of share, ownership, possession, enjoyment and/or in any way of/in the Land Parcel Numbers NORTH GEM/MALUNGA/1308, 1297 AND 1294 and from encroaching into the said lands. The Officer Commanding Station, Yala Police Station, be directed to oversee and enforce compliance with these orders. The costs of this application be borne by the respondents.

The application is based on grounds that judgment was delivered on 3<sup>rd</sup> April 2019 by Hon. S. M. Kibunja .J. for compliance within ninety (90) days from the date of judgment which is o-date defaulted by the Respondents.

The Respondents have refused and/or neglect to vacate the suit-lands and continued to occupy the same as trespassers. The respondents have not APPEALED against the judgments as were delivered. The Applicant has complied with the law and is entitled to the orders sought herein. The supporting affidavit reiterates the grounds of the application.

I have considered the application and do find that the prayer for an injunction is superfluous as it has already been granted. Moreover, there is already an order for vacant possession and eviction. The order requesting the OCS Yala Police station to intervene and oversee the enforcement of the order is likely to be abused if the applicant does not instruct an auctioneer. The applicant is hereby ordered to engage credited court bailiffs or auctioneers who will seek for an order of security by the OCS Yala Police Station from this court. The auctioneers should be instructed by the advocates first and later should seek an order for security from this court. Parties should desist from using the Police to enforce court orders. Police should only give security to those who enforce court orders. Application is dismissed. Orders accordingly.

**DATED , DELIVERED and SIGNED THIS 8<sup>th</sup> DAY OF MAY, 2020.**

**A.O. OMBWAYO**

**ENVIRONMENT & LAND**

**JUDGE**

This judgment is hereby delivered to the parties by electronic mail due to the measures restricting court operations due to COVID -19 pandemic and in light of directions issued by the Honourable Chief Justice on 15<sup>TH</sup> March 2019 and with the consent of the parties.

**A.O. OMBWAYO**

**ENVIRONMENT & LAND**

**JUDGE**