

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KAKAMEGA

ELC CASE NO. 376 OF 2017

ALBERT SORE MANGALA.....PLAINTIFF/APPLICANT

VERSUS

JOSEPHAT N. WANANGWE

LIVINGSTONE ODENYI WANANGWE

LABAN J. WANANGWE.....DEFENDANTS/RESPONDENTS

RULING

The application is dated 29th April 2020 and is brought under section 3A of the Civil Procedure Act seeking the following orders:-

1. That the officer commanding Butere Police Station be directed to provide security during the execution of the decree issued herein against the respondent herein.
2. That costs be provided for.

It is based on the annexed affidavit of Albert Sore Mangala and grounds that the applicant herein obtained a decree for eviction order dated 24th day of September, 2019 against the respondents herein who were given six (6) months to abide by the order. That the respondents herein have neglected and/or refused to move and deliver up vacant possession of the L.R.S. MARAMA/LUNZA/54. That security is needed during the execution of the said decree so as to avoid breach of peace.

The 1st respondent submitted that he did not object to the court ruling and he is a law abiding citizen who respects the rule of law. That during the succession cause he was enjoined as an objector but he complied with the judgment that was delivered on 23rd October, 2013. That he was satisfied with 2.5 acres that was allocated to his father and asks the court to assist him get his 2.5 acres before evicting him because up to now he does not have any title deed of his father's portion. That according to records in the land office it was found that Joshua Mang'ula the deceased had only one parcel of land Marama/Lunza/Plot No. 54 measuring 2.6 acres. That the reason why he has not moved is that he has not been shown where the 2.5 acres are and moreover he has no title deed of that parcel.

This court has considered the application and the submissions therein. The applicant submitted that he obtained a decree for eviction order dated 24th day of September, 2019 against the respondents herein who were given six (6) months to abide by the order. That the respondents herein have neglected and/or refused to move and deliver up vacant possession of the L.R.S. MARAMA/LUNZA/54. That security is needed during the execution of the said decree so as to avoid breach of peace. I have perused the court file and find that indeed by a judgment delivered on the 24th September 2019 the respondents were given six months to vacate the suit land and indefault eviction order to issue. The respondents have not appealed against this judgment and have not vacated. Court orders must be obeyed. I find the application is merited and I grant the same with costs to the applicant.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA THIS 28TH SEPTEMBER 2020.

N.A. MATHEKA

JUDGE