



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & ADMIRALTY DIVISION
CIVIL CASE NO. 505 OF 2008

MUIRI COFFEE ESTATE LIMITED PLAINTIFF

VERSUS

KENYA COMMERCIAL BANK LIMITED 1ST DEFENDANT

BENJOH AMALGAMATED LIMITED 2ND DEFENDANT

DAVID G. KARIUKI T/A WATTS ENTERPRISES.. 3RD DEFENDANT

BIDII KENYA LIMITED 4TH DEFENDANT

DIRECTIONS

1. On 12th February 2014, this Court ordered that the Plaintiff do deliver up vacant possession of the suit property to the 4th Defendant/Applicant and in default, an order of eviction be issued against the Plaintiff, its employees, servants and/or agents to be supervised by the County Police Commander, Kiambu County. From the Application of the 4th Defendant dated 16th May 2014, it has been alleged that the Plaintiff refused to comply with the Court's Order of 12th February 2014 and neglected to give vacant possession of the suit property to the 4th Defendant. As a result, the 4th Defendant instructed the firm of Siuma auctioneers to seek the assistance of the County Police Commander, Kiambu County, to supervise the eviction of the Plaintiff pursuant to this Court's said Order. According to the 4th Defendant, the said County Police Commander did not avail any officers despite letters requesting assistance and he failed to facilitate compliance with and execution of the Orders. As a result, the 4th Defendant has instituted contempt proceedings as against the said County Police Commander.
2. In response to those contempt proceedings, the County Police Commander, Kiambu County has filed a Replying Affidavit sworn on 4th June 2014 through the good offices of the Attorney General. The

salient paragraphs of the Replying Affidavit detail as follows:

“8. THAT my understanding of the Court Order and as also interpreted by Mr. Titi Ayiera the Legal Officer, Kenya Police Service is that:

- i. **The 4th Defendant/Applicant had to first execute the order against the Plaintiff and require**

that the Plaintiff delivers vacant possession of the suit property, and in default;

ii. The 4th Defendant/Applicant had to go back to court and obtain eviction orders against the Plaintiff to be supervised by the County Police Commander, Kiambu County.

9. THAT I have not been served with any eviction order that I have failed to supervise”.

3. .When Counsel for the 4th Defendant and the Attorney General appeared before Court yesterday 11th June, 2014, it became apparent that both Counsel required clarification of this Court’s Order dated 12th February 2014 and the matter before Court was stood over for a period of 2 days to enable this Court to give clear directions as to the way forward.
4. Upon perusal of the Court file, I am satisfied that the Order drawn up and dated 12th February 2014 reflects the Orders that I gave in my Ruling delivered herein on 12th February 2014. As above, I ordered that in default of the Plaintiff ceding vacant possession of the suit premises to the 4th Defendant, an Order of eviction be issued.
5. As a result, I now clarify the position and direct that an Order for eviction of the Plaintiff from the suit premises do issue and the carrying out of such Order shall be supervised by the County Police Commander, Kiambu County.

DATED and delivered at Nairobi this 13th day of June 2014.

J. B. HAVELOCK

JUDGE