



**REPUBLIC OF KENYA**

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

**ELC CASE NO. 282 OF 2017**

**GRACE A. MURUKI.....1<sup>ST</sup> PLAINTIFF/APPLICANT**

**SARAH CHISEKA MAKOKHA.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**AGNETA AVIZA**

**CHRISTOPHER AURA & OTHERS.....DEFENDANTS/RESPONDENTS**

**RULING**

The application is dated 6<sup>th</sup> October 2020 and is brought under Section 1, 1a, 1b, 3, 3 “a” and 63 (e) of the Civil Procedure Act Chapter 21 Laws of Kenya seeking the following orders:-

1. That service of this application be dispensed with and because of the nature of the orders sought herein the same be heard exparte.
2. That this application be placed before the Deputy Registrar of this honourable court or the learned judge and be certified urgent so that it is heard on priority basis for the reasons and grounds adduced herein.
3. That the O.C.S. Butere Police Station, officers delegated under his/her command, the Assistant County Commissioner Butere Sub County/and officers delegated under his/her command be ordered to provide the 1<sup>st</sup> plaintiff/decree holder/applicant, the court bailiff of this honourable court or the applicant’s court broker and auctioneer with adequate security if necessary while executing or levying the eviction order as decreed by this honourable court against the defendants/judgment debtors/respondents.
4. That in the event they have connected water, electricity and sewerage systems on the suit land comprised in title number Marama/shinamwenyuli/2395, the relevant authority or personnel from Kenya Power & Lighting company Limited, Lake Victoria North Water and Sewerage Company Limited and the County Government of Kakamega be ordered to disconnect the said amenities for the convenience of the 1<sup>st</sup> plaintiff/decree holder/applicant.
5. That the costs of this application be provided for.

The application is premised on the annexed affidavit of Grace Amabia Murika, the applicant and grounds that the applicant is the legal registered owner of land parcel No. Marama/Shinamwenyuli/2395 measuring approximately 2 acres hereinafter referred to as the suit land. That vide a judgment and thereafter a decree in this court issued on the 17<sup>th</sup> December, 2019 this honourable court made an order against the defendants/respondents/judgment debtors to the effect that the defendants, their agents, their employees and legal representatives are to vacate the suit land parcel number Marama/Shinamwenyuli/2395 within 6 months from the date of the said judgment and in default an eviction order to issue. That further the court decreed and ordered that a permanent injunction be issued restraining the defendants from entering, encroaching and interfering with the 1<sup>st</sup> plaintiff’s quiet possession of land parcel No. Marama/Shinamwenyuli/2395 the property of the 1<sup>st</sup> plaintiff. That the said judgment was delivered in open court in a language that was understood by the respondents in the presence of all the parties herein and their counsels on record and that the decree therein was later extracted and served upon the respondents whose conditions are well within their knowledge. That a period of 6 months issued to the defendants to prepare and vacate has elapsed but in total contravention of the court orders and the judgment herein the defendants either by themselves or through their agents continuously, defiantly and adamantly illegally remain persistently in the plaintiff’s land. That the defendants are doing so yet they have never appealed against the judgment herein or set the same aside and the orders of eviction against them are still in force. There is no sufficient reason as to why the defendants have not vacated the suit land.

This court has considered the application and the submissions therein. I have perused the court file and find that vide a judgment and thereafter a decree in this court issued on the 17<sup>th</sup> December, 2019 this honourable court made an order against the defendants/respondents/judgment debtors to the effect that the defendants, their agents, their employees and legal representatives are to vacate the suit land parcel No. Marama/Shinamwenyuli/2395 within 6 months from the date of the said judgment and in default an eviction order to issue. The applicant submits that the respondents herein have neglected and/or refused to move and deliver up vacant possession of land parcel No. Marama/Shinamwenyuli/2395. There is no stay in this matter and court orders must be obeyed. I find that this application is merited and I grant as prayer 3 of the application with costs.

It is so ordered.

**DELIVERED, DATED AND SIGNED AT KAKAMEGA THIS 8<sup>TH</sup> DECEMBER 2020.**

**N.A. MATHEKA**

**JUDGE**