



Ntinyari v Gichu (The Personal Representative of the Estate of Joyce Kaburo Rauga) (Environmental and Land Originating Summons 3 of 2019) [2025] KEELC 6567 (KLR) (29 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6567 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 3 OF 2019
BM EBOSO, J
SEPTEMBER 29, 2025

BETWEEN

ELIZABETH NTINYARI PLAINTIFF

AND

JUDY RAUGA GICHU (THE PERSONAL REPRESENTATIVE OF THE ESTATE OF JOYCE KABURO RAUGA) DEFENDANT

RULING

1. Vide the notice of motion dated 16/4/2025, the defendant seeks various post-judgment orders against the plaintiff, among them, an eviction order. She also seeks a post-judgment permanent injunction restraining the plaintiff against interfering with their quiet possession of the suit land. Lastly, she wants the OCS of Giaki Police Station to provide security during implementation of the above orders.
2. Judgment in this matter was rendered on 5/7/2023 by Yano J. The court dismissed the plaintiff's suit for lack of merit. There was no counterclaim by the defendant. The defendant having failed to make a counterclaim, and there being no positive decree in favour of the defendant except the award of costs, this suit is not available as a platform on which to canvass for the reliefs that are sought in the post-judgment application. The post-judgment application by the defendant is misconceived and fatally defective on the ground that it is anchored on a negative decree.
3. Consequently, the application dated 16/4/2025 is struck out for being fatally incompetent. There are no special circumstances to warrant a departure from the general principle in Section 77 of the *Civil Procedure Act* – that costs follow the event. The applicant shall bear costs of the application.

DATED SIGNED AND DELIVERED AT MERU THIS 29TH DAY OF SEPTEMBER, 2025.

B M EBOSO [MR]

ELC JUDGE

