

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

ELC NO. 235 OF 2017

JOSEPH NYAKUNDI ORINAPLAINTIFF

VERSUS

JOSEPH AMBUKADEFENDANT

RULING

(Application for eviction; judgment entered for the plaintiff; defendant not vacated the suit land despite being served with the decree; eviction order granted).

1. The application before me is that dated 25 October 2018 filed by the plaintiff/decree holder. It is an application seeking the eviction of the defendant/respondent from the land parcel Nakuru Municipality Block 13L (Bondeni) which is the land that has been the subject of the dispute in this case. The applicant filed suit seeking to have the respondent evicted from the suit land. The respondent filed no defence and did not participate in the proceedings. The matter proceeded for hearing and judgment was entered in favour of the applicant on 16 May 2018. In my judgment, I declared that it is the applicant who is entitled to proprietorship of the suit land and further declared that the respondent is a trespasser. I ordered the respondent to vacate the land within 30 days of being served with the judgment and/or decree and in default for him to be evicted.

2. In this application, the applicant has averred that the respondent has already been served with the decree but has failed to vacate the suit premises. I have seen the affidavit of service and I am satisfied that the respondent was duly served.

3. The applicant is entitled to the fruits of his judgment and he cannot do so if the respondent continues being in possession of the suit land.

4. I therefore allow this application and issue orders of eviction against the respondent. The said eviction to be conducted either by the court bailiff or an auctioneer/court broker, to be appointed by the applicant. I further direct the OCS, Bondeni Police Station, to provide security to the court bailiff/auctioneer. The respondent will shoulder the costs of this application.

5. Orders accordingly.

Dated, signed and delivered in open court at Nakuru this 28th day of February 2019.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU

In presence of : -

Ms. Ngugi holding brief for Mr. Matiri for the plaintiff/applicant.

No appearance for the defendant /respondent.

Court Assistant: Nelima Janepher.

JUSTICE MUNYAO SILA

ENVIRONMENT & LAND COURT AT NAKURU