



**Jacka & another v Jacka & 3 others (Environment and Land Case Civil
Suit 96 of 2013) [2025] KEELC 8650 (KLR) (9 December 2025) (Ruling)**

Neutral citation: [2025] KEELC 8650 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT BUSIA
ENVIRONMENT AND LAND CASE CIVIL SUIT 96 OF 2013**

BN OLAO, J

DECEMBER 9, 2025

BETWEEN

CONCEPTA NASIPWONI JACKA 1ST PLAINTIFF

JANET AWUOR JACKA 2ND PLAINTIFF

AND

LYDIA AWUOR JACKA 1ST DEFENDANT

PAUL OMILLA JACKA 2ND DEFENDANT

AMOS OKWAROI JACKA 3RD DEFENDANT

SIMON OMANYALA JACKA 4TH DEFENDANT

RULING

1. It is now a common practice for the Police to decline to provide security and supervise evictions from land even when required to do so. They invariably cite directions from their superiors. At least for my part, I am yet to get a copy of those directions. This matter was discussed at length during our Court Users Committee (CUC) meeting held on 1st December 2025 when Advocates expressed their frustrations in getting the Police to provide Security during the execution of eviction orders even after such orders have been issued by the Courts after the trials have been conclusively determined.
2. While the Police may have good reasons for being slow in providing security during the process of executing eviction orders, it must also be made clear to them that these eviction orders are the result of lawful Court orders following the conclusion of the trial process. The beneficiaries of such orders are entitled to enjoy the fruits of their judgments even if that involves evicting trespassers from the land in dispute. Otherwise, one side of our stake holders who deserve Police protection will genuinely feel discriminated against and lose faith in the judicial process. I do not think even the Police themselves would like to be regarded as passive on-lookers when other parties rights are violated with impunity.



Service is supposed to be for ALL No.t for SOME. I must remind the Police that Section 24 of the [National Police Service Act](#) sets out the functions of the Police to include providing assistance to the public, maintenance of law and order, preservation of peace and protection of life and property.

3. The dispute with regard to the land parcels No. N. Teso/Kochola/2270 and 2271 (the suit land) was heard by Kaniaru J who, vide a judgment delivered on 13th November 2018 made two disposal orders in favour of Cocepta Naspwoni Jacka and Janet Awuor Jacka (the 1st and 2nd Plaintiffs respectively). For the purposes of this ruling, the relevant order is the eviction order issued against Lydia Awuor Jacka, Paul Omilia Jacka, AMOS Okwaroi Jacka and Simon Omanyala Jacka (the 1st to 4th Defendants respectively) from the suit land together with their relatives, agents and No.minees. An appeal against that judgment was dismissed by the Court of Appeal in Kisumu Civil Appeal No. 4 of 2019.
4. The Defendants neither vacated the suit land No.r were they evicted therefrom and vide a ruling delivered on 8th October 2024, I issued an order directing the Officer Commanding Malaba Police Station (OCS) to provide security and ensure that there is law and order during the eviction of the Defendants, their relatives, agents and all those claiming through them from the suit land. I however added that the said eviction be conducted in a humane manner without destruction of any property and in accordance with the law. It would appear, again, that the Defendants neither vacated the suit land No.r were they evicted. The Police have been reluctant to supervise evictions of persons from land citing orders from their superiors. It is No.t clear why and neither have those orders from above been shared with this Court, at least No.t to my kNo.wledge.
5. I No.w have for my determination the Plaintiffs' No.tice of Motion dated 8th April 2025 premised on Articles 48 and 159 2(b) of [the Constitution](#), Sections 1A, 1B, 3, 3A and 80 of the [Civil Procedure Act](#), Section 14 of the [Environment and Land Court Act](#) and Order 45 Rules 1, 2, 3 and 4 of the Civil Procedure Rules. By this Motion, the Plaintiffs seek the following orders:
 1. Spent
 2. That the HoNo.urable Court be pleased to vary and/or review the orders arising from the ruling delivered on 8th October 2024 particularly order No. 3 to allow the Plaintiffs the use of reasonable force in evicting the Defendants from all that parcel kNo.wn as land title No. No.RTH Teso/Kochola/2270 and No.RTH Teso/Kochola/2271 under the supervision of Malaba Police Station.
 3. That the HoNo.urable Court be pleased to cite Mrs Lydia Awuor Jacka, Mr Paul Omilia Jacka, Mr Amos Okwaro Jacka and Mr Simon Omanyala Jacka the Defendants herein for contempt of Court for willfully and defiantly disobeying and/or intentionally refusing to adhere to the lawful order of this Court.
 4. That this HoNo.urable Court be pleased to issue any such orders it shall deem necessary in the circumstances.
 5. That costs of the application be provided for.
6. The Motion is premised on the grounds set out therein and is supported by the affidavit of Cocepta Naspwoni Jacka the 1st Plaintiffs herein.
7. The gravamen of the application is that No.twithstanding the judgment delivered herein by Kaniaru J on 13th November 2018 in which the Plaintiffs were decreed to be the rightful owners of the suit land and further, the Defendants' appeal against that judgment having been dismissed by the Court of Appeal and in spite the subsequent ruling delivered on 8th October 2024, the Defendants have refused to vacate the suit land.



8. When the application was placed before me on 10th April 2025, I directed that it be canvassed by way of written submissions. The Plaintiffs were to serve the Defendants with the Motion and submissions within 14 days. The Defendants were to respond in 21 days after service.
9. When the Motion came up for mention on 12th May 2025, MR AKIRO counsel for the Plaintiffs informed this Court that he had No.t been served with any response or submissions by the Defendants although he had served them with the Motion and submissions.
10. The Court has considered the Motion, the supporting affidavit and submissions by Mr Akiro. The Motion is un-opposed and on 12th May 2025, I did inform Mr Akiro that I would only consider prayer No. 3 thereof. I did No.t see the need to consider prayer No. 2 because it was res judicata having already been determined vide my earlier ruling dated 8th October 2024.
11. With regard to prayer No. 3, it is No.t in doubt that the Defendants were ordered to be evicted from the suit land as prayed in prayer No. 10 of the Plaintiffs amended plaint dated 4th March 2016 and their appeal was dismissed. They have No.t responded to this Motion and there is No.thing to suggest that they are No.t aware about the very clear judgment by Kaniaru J which they appealed but lost. They can No.t feign igNo.rance about the clear judgment of this Court and the fact that they have No.t bothered to respond to the Motion is illustrative of a clear intent to igNo.re it. Parties are bound by Court Orders whether they agree with them or No.t. That is the law.
12. In the circumstances I hereby allow the Motion and find the Defendants to be in contempt of the judgment of this Court delivered on 13th No.vember 2018. It is clear that they have No. intention of vacating the suit land and are benefitting from the reluctance of the Police to supervise their evictions therefrom. I therefore issue the following disposal orders:
 1. The Defendants namely Lydia Awuor Jacka, Paul Omilla Jacka, Amos Okwaroi Jacka And Simon Omanyala Jacka are all in contempt of the judgment of this Court.
 2. They be summoned to attend Court on 18th February 2026 for mitigation and any further necessary orders.
 3. No. orders as to costs.

BOAZ N. OLAO

JUDGE

9TH DECEMBER 2025

Ruling dated, signed and delivered by way of electronic mail on this 9th day of December 2025 with No.tice to the parties.

BOAZ N. OLAO

JUDGE

9TH DECEMBER 2025

