



REPUBLIC OF KENYA



**Kuronoi v Kondonyo (Environment and Land Case 515 of 2017)  
[2025] KEELC 18481 (KLR) (19 December 2025) (Ruling)**

Neutral citation: [2025] KEELC 18481 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAROK  
ENVIRONMENT AND LAND CASE 515 OF 2017  
LN GACHERU, J  
DECEMBER 19, 2025**

**BETWEEN**

**DAVID RAKOI KURONOI ..... PLAINTIFF**

**AND**

**MOROSUA OLE KONDONYO ..... DEFENDANT**

**RULING**

1. The Plaintiff/Applicant, filed a Notice of Motion Application dated 1<sup>st</sup> July 2025, brought under Sections 1A, 1B, 3 and 3A of the [Civil Procedure Act](#) Cap 21 of the Laws of Kenya, Section 34 of the [Civil Procedure Act](#), Order 22 Rule 6, Order 51 Rule 1 of the Civil Procedure Rules, 2010, and sought for the following orders;
  - i. That this court be pleased to order that the Defendant/Respondent, his agents, employees, servants, family members and relatives be forcibly evicted from all that parcel of land known as Suswa Kitet Group Ranch 778.
  - ii. That this court be pleased to direct the OCS Duka Moja Police Station to provide security during the said eviction.
  - iii. That the costs occasioned by this application be borne by the Respondent
2. The application is premised on the grounds set out on the face of the application; among them that a Judgment was delivered on 22<sup>nd</sup> March 2023, in favor of the Plaintiff/Applicant. In the said Judgment, the court declared that land parcel No. Suswa Kitet Group Ranch 778, was legally allocated to the Plaintiff/Applicant, and it ordered the Defendant to vacate said suit land within a period of 90 days, from the date of that judgment, failure of which an eviction order would be issued in compliance with Section 152E of the [Land Act](#).



3. The Plaintiff/Applicant further averred that the Defendant/Respondent did not appeal, review, or set aside the said Judgment, although he filed applications for a stay of execution and extension of time to file a Notice of appeal out of time, as well as for setting aside proceedings and referring the matter to Alternative Justice Systems (AJS). Both applications were dismissed for lack of merit on 19<sup>th</sup> December 2023, and 7<sup>th</sup> May 2024, respectively.
4. The Plaintiff/Applicant further averred that despite the Defendant/ Respondent being served with an eviction Notice dated 5<sup>th</sup> June 2023, and certificates of costs and decree, the Defendant/Respondent has refused to vacate the land, and denied the Plaintiff/Applicant an opportunity to enjoy the fruits of the judgment.
5. The Plaintiff/Applicant also sought the police assistance for a smooth eviction process, citing the Defendant/Respondent's contempt of court orders and actions of wasting the land.
6. The application is supported by the Supporting Affidavit of David Rakoi Ole Kuronoi sworn on 1<sup>st</sup> July 2025. In his Affidavit, the Plaintiff/Applicant deponed that despite the Defendant/Respondent being aware of the Judgment delivered on 22<sup>nd</sup> March 2023, he never filed any appeal, review, or application to set aside the judgment.
7. The Plaintiff/Applicant also stated that despite being aware of the court's Judgment, the Defendant/ Respondent has refused or neglected to comply with its terms and remains in occupation of the suit land. Following the Defendant/Respondent's failure to vacate the suit land within the 90-day period as directed by the court, an eviction notice was served upon the Defendant/Respondent, the Officer Commanding Police Division, and the Deputy County Commissioner at Nairage Enkare.
8. The Plaintiff/Applicant deponed that despite being served with the Certificates of costs and decree, the Defendant/Respondent has refused to vacate the suit land, depriving the Plaintiff/Applicant of its use and benefit.
9. The Plaintiff/Applicant contended that it is in the interest of justice for the instant application to be allowed, and the Defendant/Respondent be evicted from the suit land.
10. Despite service, the Defendant/ Respondent did not file his response to the application herein, and/or oppose it.
11. Application was canvassed by way of written submission. The Plaintiff/ Applicant filed his written submissions dated 21<sup>st</sup> October 2025 and submitted that the application herein seeks execution of a Judgment delivered on 22<sup>nd</sup> March 2023, and decree of the court issued on the same date. The Plaintiff/ Applicant submitted that the said Judgment declared that land parcel No. Suswa Kitet Group Ranch 778, was legally allocated to the Plaintiff/Applicant herein. Further, the court ordered the Defendant/ Respondent to vacate the suit land within 90 days, failing of which an eviction order would be issued.
12. The Plaintiff/ applicant also submitted that despite being aware of the said Judgment, the Defendant/ Respondent has not filed any appeal, nor sought a review, or applied for a stay of execution of the said Judgment of the court.
13. The Plaintiff/ Applicant further submitted that he issued an eviction notice dated 5<sup>th</sup> June 2023, as directed by the court under Section 152F of the *Land Act*, which was served upon the Defendant/ Respondent, the Officer Commanding Police Division, and the Deputy Commissioner Nairage Enkare. Despite this, the Defendant has refused to vacate the land, depriving the plaintiff/ Applicant of the use and benefit of his property and acting in contempt of court orders.



14. Consequently, the Plaintiff/ Applicant sought the court's intervention to execute its Judgment and decree, uphold its integrity, and ensure peaceful execution with Police assistance to avoid disturbances. The Applicant cited Section 22(6) of the Civil Procedure Rules, 2010, and the case of Michael Bartenge v Stephen Bartenge [2007] eKLR, where the court held; -

“By virtue of section 30 of the Civil Procedure Act; “a decree may be executed either by the court which passed or by the court to which it is sent for execution.” In effect, it is the court which executes decrees. The party, who holds a decree which is in his favour, only applies to the court to execute the decree. Therefore, if the order to stop the execution was issued in the nature of an injunction, it would effectively be addressed against the court. And, as it is the duty of the court to execute its decrees, an injunction to restrain it from so doing would be purporting to stop the court from performing one of its roles. That, in my considered view, would not be proper, even if the orders were clothed in such language as suggested that the orders were directed against the defendant. The only manner in which courts are stopped from taking steps to execute decrees is through orders for stay of execution. No such order has been sought herein.”

15. Ultimately, the Plaintiff/Applicant submitted that it is in the interest of justice that this court should exercise its discretion in favour of the applicant and grant the orders sought, so that the ends of justice can be met, and that the application herein is merited.

16. The court has considered the instant application and the orders sought, and it is evident that the suit herein is anchored under sections 1A, 1B and 3A of the Civil Procedure Rules, which sections of law, deal with the overriding objective of the Civil Procedure Act, and the unfettered powers of the court to issue orders that are necessary for the end of justice to be met,

17. Further, Section 34 of the said act deals with questions to be determined by the court in execution of the decree. Order 22 Rule 6 of the Civil Procedure Rules provides;

“Where the holder of a decree desires to execute it, he shall apply to the court which passed the decree, or, if the decree has been sent under the provisions hereinbefore contained to another court, then to such court or to the proper officer thereof; and applications under this rule shall be in accordance with Form No. 14 of Appendix A:

Provided that, where judgment in default of appearance or defence has been entered against a defendant, no execution by payment, attachment or eviction shall issue unless not less than ten days' notice of the entry of judgment has been given to him either at his address for service or served on him personally, and a copy of that notice shall be filed with the first application for execution.”

18. The Plaintiff /Applicant as a decree holder desires to execute the decree of the court, and he has consequently applied to this court to be allowed to execute the said decree.

19. The court has considered the court record, and it is evident that on 22<sup>nd</sup> March 2023, the court did enter a decree in favour of the Plaintiff/Applicant, wherein the court declared that land parcel No Suswa Kitet Group Ranch/778, was properly and legally allocated to the plaintiff, and therefore, it belongs to him.

20. Further, the court ordered the Defendant to vacate the said suit land within a period of 90 Days from the date of that Judgement, in default, eviction was to issue, and the provisions of sections 152E of the Land Act, was to be strictly followed.



1. The Plaintiff/Applicant has averred that the said judgment of the court has not been appealed against, and set aside, and or vacated. Therefore, it is valid judgment that is enforceable. See the case of *M.A Koinange vs Joyce Ganchuku & 2 others* [2015]eklr.
21. In this judgment of the court, the Defendant was supposed to give vacant possession of the suit land to the Plaintiff/Applicant, which he has not done. Since 90 Dys expired along time, then eviction order is supposed to issue.
22. The court directed that in carrying out eviction, the provisions of sections 152 E of the *Land Act*, was to be strictly adhered to.
23. Section 152E of the *Land Act* Land Laws (Amendment) Act, 2016, governs eviction from private land, which requires landowners to give unlawful occupiers a written notice of at least three months before eviction. Further the section specifies the terms for removing property, and serving it to the occupier, Deputy County Commissioner and OCPD.
24. This provision of law aims to formalize eviction processes, by preventing arbitrary removals and ensuring due process for unlawful occupants, thereby ensuring the occupants of the land have time to relocate.
25. The key requirements of Section 152E of *Land Act* are; A Written Notice, must be given in writing and the said notice must be in national and/or official language being Kiswahili or English.
26. Further, the duration must be at least three months before the intended eviction date. And the Content , must detail conditions for removing buildings, crops, or other belongings. Ultimately, there should be evidence of service. This Notice of eviction must be served on the unlawful occupier, the DCC, and the OCPD.
27. In his Supporting Affidavit, the Plaintiff/Applicant attached an Affidavit if service by Arasa Kinara, the process server, who served the notice of eviction to Morosua Ole Kondonyo, the Defendant herein, OCPD, Nairage Enkare, and Deputy County Commissioner Nairagie Enkare. Therefore, on service the Plaintiff/Applicant has fulfilled that condition
28. The Plaintiff/Applicant averred that the Defendant has not vacated the Suitland and thus this Application. Since there is a valid court order, the Defendant should Comply with it.
29. In the case of *Gacheri v M'ikinyua; Kagwiria* (Intended Interested Party) (Environment & Land Case 201 of 2012) [2024] KEELC 13369 (KLR) (20 November 2024) (Ruling), t the court held;

“Section 152 (E) & (G) of the Land Laws (Amendment) Act No. 28 of 2016, clearly provides that the notice to vacate must be issued not less than three months before the intended date of eviction. Therefore, whether the respondents are occupying public land or private land, they are still entitled to three (3) months' notice”.
30. The Plaintiff/Applicant has confirmed that he did comply with the above provisions of section 152 E of the *Land Act*, and this court finds no reasons to decline to allow the orders sought in the Notice of Motion Application dated 1<sup>st</sup> July 2025.
31. In the case of *Dzimba v Hassan* [2025] KEELC 4283 (KLR); the Court stated as follows while issuing an eviction order sought vide an application:

“There is no contest that the applicant has a decree in his favour which was passed on 02.02.2016. There is no dispute that the said decree has never been overturned on appeal or



review. There is no contest that the respondent was found guilty of contempt of court for failing to comply with the terms of the decree. It is also evident from the material on record that the respondent has no pending appeal either against the decree or the order holding him in contempt of court. The court is thus satisfied that the applicant is entitled to enjoy the fruits of his judgment and that he is entitled to succeed in his application. The court is not satisfied that the respondent has demonstrated any legitimate reason to keep the applicant out of the suit property.”

32. It is trite that where a party seeks eviction orders, he or she has to adhere to the provisions of section 152 E and 152F of the *Land Act*. this court notes the Plaintiff/ Applicant has demonstrated that the Defendant/ Respondent was indeed served with eviction notices in accordance to the laid down legal provisions but he has declined to move from the suit premises. There is a valid decree of the court, which has not been vacated, and is enforceable.
33. Consequently, and in the circumstances, this court finds and holds that the instant application dated 1<sup>st</sup> March 2025 is merited and the same is allow terms of prayers Nos 2, 3 and 4.

It is so ordered

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAROK THIS 19<sup>TH</sup> DECEMBER 2025.**

**L. GACHERU**

**JUDGE.**

Delivered online in the presence of

N/A for Defendant/Respondent

**L. GACHERU**

**JUDGE.**

