

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ELC NO. E008 OF 2024

KENNETH SHITSUGANE OLEMBO-----
PLAINTIFF/APPLICANT

VERSUS

JACOB NASONGO
NALANDA-----DEFENDANT/RESPONDENT

RULING

- 1.** The court, by an application dated **23/9/2025**, is asked to compel the applicant to give vacant possession of the decreed land within **14** days of the order, and in default, an eviction order to issue under the supervision of the OCS Kwanza Police Station.
- 2.** The reasons are contained on the face of the application and in a supporting affidavit sworn by Kenneth Shitsugane Olembo on **23/9/2025**. The applicant deposes that in the judgment dated **11/6/2026**, the respondent was ordered to vacate the land within **3** months, and has since its expiry refused, neglected, or ignored to comply. It is deposed that there are no stay orders of the court's decree, hence this application.
- 3.** The application is opposed through grounds of opposition dated **30/10/2025**, that no notice of

eviction has been served in line with **Section 152E** of the Land Act **2012**, before seeking the eviction orders, rendering the application an abuse of the court process.

- 4.** The judgment of this court was delivered in the presence of the parties and their advocates. It was clear from paragraph **56** that an eviction notice shall issue against the defendant to hand over vacant possession after **3** months in default, and execution would proceed. Other than alleging that a decree was extracted, there is no evidence on when it was served upon the judgment debtor.
- 5.** Equally, there is no evidence of service of a formal notice of eviction in full compliance with **Section 38** of the Civil Procedure Act, **Section 152A** of the Land Act, before the applicant can seek the court's assistance for an eviction order, and the invocation of **Section 24** of the National Police Service Act.
- 6.** The court agrees with the grounds of opposition that the application is an abuse of its process. The judgment was clear on vacant possession and the eviction process. The applicant simply ought to follow the law on execution and no more. There is no demonstration of the same.

7. The upshot is I find the application not only incompetent but also lacking merit. It is dismissed with costs.
8. Orders accordingly.

Ruling dated, signed, and delivered via Microsoft Teams/Open Court at Kitale on this 21st day of January 2026.

In the presence of:

Court Assistant - Dennis

Mr. Ndarwa for the respondent present

Korongongo for the applicant present



**HON. C.K. NZILI
JUDGE, ELC KITALE.**