



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS
ELC CIVIL CASE NO. 54 OF 2020

BETWEEN

NELSON MUTURI DUMBEIYA.....
.....PLAINTIFF

VERSUS

KEVIN OKOTH1ST
DEFENDANT

COUNTY GOVERNMENT OF MACHAKOS.....2ND
DEFENDANT

ALL OTHER UNKNOWN PERSONS CONSTRUCTING
OR LAYING CLAIM TO L.R. NO. 18990, IR NO. 127415
SABAKI ESTATE, MACHAKOS COUNTY.....
DEFENDANTS

AND

MICHAEL OCHIENG OBIERO.....1ST
INTERESTED PARTY

SAADI ALI ALIO.....2ND

INTERESTED PARTY

DAVID MUTEMA.....3RD INTERESTED

PARTY

ADAN HALAKE BORU.....4TH

INTERESTED PARTY

RULING

1. This ruling concerns an unopposed notice of motion dated 16/10/2024, filed by the plaintiff. It is presented as being made in accordance with **Sections IA, 1B, 3A, and 89** of an undisclosed **Act**, and **Order 51** of the **Civil Procedure Rules**. The plaintiff seeks the following orders from this court: -

a. THAT the court be pleased to order the Officer Commanding Athi-River Police Station to provide security to the plaintiff in execution of the default order No. 3, dated 11th July 2023, made by the Honourable Lady Justice A. Nyukuri.

b. THAT costs be in the cause.

2. The motion is supported by the grounds set out in the body thereof and the plaintiff's supporting affidavit, sworn on the instant date, and in a nutshell, he states that by a ruling

delivered on 9th February 2023, this court found the interested parties in contempt. Later, on 11th July 2023, the court ordered each contemnor to pay a fine of Kshs. 300,000 or serve three months in jail. Further, the court also directed the contemnors to demolish structures built on the suit property within seven days, failing which the plaintiff would demolish them at the contemnors' expense. The contemnors have not complied with the order to demolish the structures. Additionally, by an order dated 29th July 2020, this court directed the OCS, Athi-River Police Station, to serve and enforce the injunction order due to the hostile conduct of the encroachers, now contemnors.

3. When the matter was brought before this court on 6/11/2025, the plaintiff, who is also counsel and whose law firm is on record for him, presented oral submissions and urged the court to grant the motion. Accordingly, after hearing counsel and thoroughly examining the motion, including its grounds and affidavit, the sole issue for determination is **whether the motion is merited.**
4. The legal framework on police assistance is found in **Section 24** of the **National Police Service Act**. Under it, the police have the duty to maintain law, security, and order, and to enforce all laws and regulations with which they are charged, amongst other functions. This important role of the police in the execution of court orders is recognised. Moreover, it must be mentioned that this is a civil matter and, in the absence of extremely special circumstances, it is inappropriate for a civil

litigant to seek assistance from the police at an interlocutory stage since any default of the orders of this court can adequately be handled under the **Civil Procedure Act** and its **Rules**.

5. Having thoroughly reviewed the record, this case is categorised under exceptional circumstances due to the repeated disobedience of court orders by the interested parties, who have also constructed structures on the disputed property identified as **L.R. no. 18990, I.R. No. 127415**. These parties have been found in contempt, and there exists no justification for denying the plaintiff police assistance in executing the court's order of 11th July 2023, which authorised the demolition of their structures. Ultimately, the court finds that the notice of motion dated 16/10/2024 is merited and allows it, with costs in the cause. In the end, the following final orders are hereby issued:

a. The court bailiff is permitted to and shall proceed to enforce the orders of 11th July 2023 by demolishing all of the interested parties' structures on L.R. no. 18990, I.R. No. 127415.

b. The OCS Athi River police station shall provide security to the court bailiff, upon payment of the costs to be incurred, for the enforcement of the orders dated 11th July 2023.

c. Costs of the motion shall be in the cause.

d. A mention date shall be issued.

Orders accordingly.

**Delivered and Dated at Machakos this 3rd day of March
2026.**

**HON. A. Y. KOROSS
JUDGE
3.03.2026**

**Ruling delivered virtually through Microsoft Teams Video
Conferencing Platform**

In the presence of;

Ms Kanja Court Assistant

No appearance for parties