



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT & LAND COURT**

**AT MURANGA**

**ELC NO. 54 OF 2018**

**JUDITH JULIA WANJIRO NJOROGE.....PLAINTIFF**

**VS**

**SAMUEL NGERU MWANGI.....DEFENDANT**

**RULING**

1. The Plaintiff vide a Notice of Motion filed on the 8/5/19 sought the following orders;

a. Spent

b. Spent

c. That this honourable Court do issue an eviction order against the Defendant/Respondent in strict compliance of the earlier orders dated 29/3/19 which declared the Defendant a trespasser.

d. This honorable Court be pleased to grant the Plaintiff/Applicant and or her authorised agents police assistance into land reference No MURANGA/ITHANGA/PHASE II/244 (suit land) occupied by the Defendant/Respondent in order to maintain law and order and to enable her evict for the purposes of maintaining law and order.

e. That the cost of the application be provided for.

2. The Notice of Motion is based on the grounds as set out below;

a. That this honourable Court did declare that the Plaintiff/Applicant is the bonafide owner of that parcel of land known as MURANGA/ITHANGA/PHASE II/244 herein referred to as the suit land.

b. That consequently the Defendant/Respondent was declared a trespasser by this honourable Court.

c. That despite the Respondent having been served with the said Court order directing him to evict the suit land within the 15 days he has ignored and or refused to comply with the said order.

d. That the Defendant /Respondent has continued to cause a lot of destruction of the suit by cutting tress and burning as well as selling firewood from the trees cut down.

e. That the Plaintiff/Applicant stands to suffer irreparable loss damage and inconvenience if the Defendant/Respondent is not forcefully evicted from the suit land.

3. The application is supported by the Supporting Affidavit of Applicant who reiterated the grounds set out in para 2 above. In addition, she added that despite service of the Court orders having been served on the Respondent, the Respondent has refused to vacate the suit land and is continuing with the destruction by cutting down trees to burn charcoal as well as tilling the suit land.

4. Judgement was delivered in favour of the Plaintiff on the 28/2/19 in the following terms;

a. A declaration that the Plaintiff is the bonafide and registered owner of land known as MURANGA/ITHANGA/PHASE II/244 (suit land).

b. A declaration that the Defendant is a trespasser on land reference no. MURANGA/ITHANGA/PHASE II/244

c. A permanent injunction be issued restraining the Defendant, his employees, agents and or servants from trespassing and or interfering whatsoever with land reference number MURANGA/ITHANGA/PHASE II/244.

d. The Defendant is ordered to vacate the suit land within 15 days from the date of this judgment in default the Plaintiff to apply for eviction of the Defendant in strict compliance with the law.

e. The Plaintiff shall have the costs of the suit.

5. Despite service of the same the application is not opposed by the Respondent.

6. I understand the application by the Applicant to be for enforcement of the orders of the Court aforesaid. The provisions of Order 22 Rule 29 of the Civil Procedure Rules provide for execution of a decree of immovable property and delivery of possession.

7. The Court is of the view that it is within its mandate to make further orders to serve the limited purposes of enforcing its judgment. The Court cannot fold its hands as by doing so will cause hardship to the decree holder who should enjoy the fruits of her judgement.

8. The upshot is that the application is allowed in terms of prayers 3, 4 & 5.

9. I make no orders as to costs.

**10. It is so ordered.**

**DELIVERED, DATED AND SIGNED AT MURANG'A THIS 23<sup>rd</sup> DAY OF SEPTEMBER 2019.**

**J.G. KEMEI**

**JUDGE**

**Delivered in open Court in the presence of:**

Plaintiff/Applicant: Absent

Defendant/Respondent: Present in person

Irene and Njeri, Court Assistants