



**Gatimu & another v Omwenga (Sued on his own Behalf and as Chairman
Amani Self Help Group) & 12 others (Environment and Land Case
288 of 2013) [2025] KEELC 5961 (KLR) (27 August 2025) (Ruling)**

Neutral citation: [2025] KEELC 5961 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE 288 OF 2013
CG MBOGO, J
AUGUST 27, 2025**

BETWEEN

CHARLES MUNENE GATIMU 1ST PLAINTIFF

KAREGI CATHERINE KAMANJA 2ND PLAINTIFF

AND

**EARNEST OMWENGA (SUED ON HIS OWN BEHALF AND AS CHAIRMAN
AMANI SELF HELP GROUP) 1ST DEFENDANT**

PETER KINYUA 2ND DEFENDANT

ABEL OYARO 3RD DEFENDANT

PROTAS MANDELA 4TH DEFENDANT

JOHN NGIGE 5TH DEFENDANT

CHARLES AKUNGA 6TH DEFENDANT

SAMUEL MOTURI 7TH DEFENDANT

EVANS OBIERO 8TH DEFENDANT

FRANCIS NDIRANGU 9TH DEFENDANT

PETER KIOKO 10TH DEFENDANT

STEPHEN KIBUNJA 11TH DEFENDANT

MARY WAMBUI 12TH DEFENDANT

LUCY NJERI 13TH DEFENDANT



RULING

1. Before this court for determination is the notice of motion dated 7th February, 2025 filed by the 1st plaintiff/applicant, and it is expressed to be brought under Sections 1, 1A, 1B, 3A and 3B of the Civil Procedure Act and Order 40 of the Civil Procedure Rules seeking the following orders:-
 1. Spent.
 2. The honourable court herein do and direct the Kenya Police Service that is the OCS Dandora Police Station to provide security and maintain peace during the eviction exercise to be carried in execution of the decree herein.
 3. The respondents do bear the costs of this application.
2. The application is premised on the grounds inter alia that judgment was entered in their favour as against the defendants/judgment debtors on 21st September, 2023. The application was further supported by the affidavit of the 1st plaintiff/applicant sworn on even date. The 1st plaintiff/applicant deposed that on 24th December, 2024, the court of appeal dismissed with costs the appeal filed by the judgment debtors, and up and until now, they are in occupation of the suit property known as LR. 209/11970 situate in Dandora estate within Nairobi. He deposed that he desires to execute the decree of this court through eviction which is likely to be forceful and acrimonious. Further, that he requires the presence of the police officers to protect his agents or auctioneers who will be carrying out the eviction.
3. The defendants/judgment debtors filed grounds of opposition dated 19th August, 2025 challenging the application on the following grounds:-
 - i. That the prosecution of the said notice of motion dated 7th February, 2025 is premature on account of the fact that costs have not been taxed in the usual manner in compliance with Order 22 Rule 26 of the Civil Procedure Rules.
 - ii. That in the alternative, the plaintiff's/decree-holders have not lodged any document forfeiting costs to warrant the institution of the present motion.
 - iii. In the circumstances, the said motion of 7th February, 2025 should be dismissed.
4. The application was canvassed by way of written submissions. The 1st plaintiff/decree holder filed his written submissions dated 17th March, 2025. He submitted that pursuant to the judgment delivered by this court, the defendants/judgment debtors were granted 120 days to vacate the suit property but the said orders have not been complied with. He further submitted that the location of the suit property is within Dandora which is a very crowded area, and that the same is surrounded by a huge number of dwellers who are likely to interfere with the eviction. Further, that it is important to protect those involved and that police presence be availed to maintain peace and order during the enforcement of the orders.
5. The 2nd plaintiff/judgment holder filed her written submissions dated 8th July, 2025. She had informed the court that she is in support of the instant application. She relied on the case of Gideon Sitelu Konchellah v Julius Lekakeny Ole Sunkuli & 2 others [2018] eKLR, and Kavu & others v Marogo aka Chibwanda (Environment & Land Court Case E067 of 2022 [2024] KEELC 7146(KLR) (29 October, 2024) (Ruling).



6. The defendants/judgment debtors did not file their written submissions. Be that as it may, I have considered the application, the grounds of opposition and the written submissions filed by the plaintiffs/deed holders. The issue for determination is whether the orders of police assistance ought to issue.
7. It is not in dispute that a decree was issued in this matter on 18th October, 2023. The decree is clear to the effect that an eviction order shall issue in the event that the defendants/judgment debtors do not vacate the suit property within 120 days as provided in the judgment delivered on 21st September, 2023. In this case, the plaintiffs/judgment holders are seeking the orders directing the OCS Dandora Police Station to provide security, and maintain peace during the eviction exercise to be carried in execution of the decree herein. In challenging this application, the defendants/judgment debtors contended that it's premature on account that costs have not been taxed. Without a doubt, the execution of the decree was not conditional upon taxation of costs as far as the court is concerned.
8. The defendants/judgment debtors have not challenged their occupation of the suit property. In realization of the judgment, it is lawful that execution takes place as decreed. From the above, this court finds merit in the notice of motion dated 7th March, 2025 and it is hereby allowed in the following terms:-
 - i. An order of eviction is hereby issued against the defendants from the suit property known as LR. 209/11970 situate in Dandora estate.
 - ii. The OCS Dandora Police Station to provide security and maintain peace during the eviction exercise to be carried in execution of the decree herein.
 - iii. The costs of this application and the eviction exercise to be borne by the defendants.

Orders accordingly.

DATED, SIGNED & DELIVERED VIRTUALLY

THIS 27TH DAY OF AUGUST, 2025.

HON. MBOGO C.G.

JUDGE

27/08/2025.

In the presence of:

Mr. Benson Agunga - Court assistant

Mr. Maranga holding brief for Mr. Momanyi for the 1st Plaintiff/Applicant

Mr. Were for the 2nd Plaintiff

Mr. Erick Maosa holding brief for Mr. Thomas Maosa for the 1st Defendant

