

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NYERI

ELC CASE NO. 674 OF 2014

MOSES MAINA KIMONDO.....PLAINTIFF/APPLICANT

-VERSUS-

ELIHAH WAWERU KIMONDO.....DEFENDANT/RESPONDENT

RULING

1. The notice of motion dated **13th July, 2017** seeks to enforce the judgment of this court delivered on 28th March, 2017. Vide that judgment, this court allowed the applicant's suit for eviction of the respondent from **L.R NO. Ruguru/ Kiamanga/ 11/29** if the defendant failed to vacate the suit property within 60 days.
2. The application is premised on the ground that the respondent has refused to vacate the suit property and has been issuing death threats to the plaintiff and his family.
3. To ensure that peace prevails during the eviction exercise, the applicant prays that the exercise be carried out by Richard Njoroge Wachira trading as Green bells Auctioneers.
4. When the matter came up for hearing on 26th July 2017, the applicant informed the court that the respondent was served with the application by Simon Ndirangu Ndumia, a licensed process server on 20th July 2017; that the respondent accepted service but declined to sign the process server's copy. In support, the applicant filed an affidavit of service sworn on 20th July, 2017 by Simon Ndirangu Ndumia.
5. There being no response to the application and the defendant having failed to attend court, the applicant urged the court to allow the application as prayed.
6. When judgement was delivered in open court on 28th March 2017, both the plaintiff and the defendant were present in court. The orders of the court were clear that the defendant would be evicted from the suit property if he failed and or refused to vacate the suit property within 60 days.
7. Having failed to vacate the suit property as ordered by the court, I hereby grant prayers 2 and 3 as sought in the Notice of Motion dated 13th July, 2017.

Dated, Signed and Delivered in open court at Nyeri this 27th day of September, 2017.

L N WAITHAKA

JUDGE

In the presence of:

Moses Maina Kimondo/applicant

No appearance for the defendant

Court assistant – Esther