



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E&L NO. 393 OF 2013

ABIGAEL BARMAO.....PLAINTIFF

VS

MWANGI THEURI.....DEFENDANT

(Application for eviction; judgement having been entered for the plaintiff against the defendant; defendant ordered to vacate suit land but not doing so; application allowed; order of eviction issued)

RULING

The application before me is that dated 15 October 2014. It seeks orders to have the defendant evicted from the land parcel Uasin Gishu/Kahungura Scheme/237.

In this suit, the plaintiff contended that she is the absolute proprietor of the land parcel Uasin Gishu/Kahungura Scheme/237. It was her case that the defendant has trespassed on the suit land. In her pleadings the plaintiff inter alia sought orders to have the defendant evicted from the suit land. The defendant never filed appearance nor defence and the matter proceed as an undefended cause. I heard the evidence of the plaintiff and on 23 April 2014 I entered judgment for the plaintiff. I inter alia ordered the defendant to vacate the suit land within a period of 30 days of service of the judgment and/or decree.

In this application, it is contended that the defendant has failed to move out of the suit land. That is the reason that the plaintiff wants the order of eviction.

I have gone through the application. There is an annexed affidavit of service by one Vincent O. Ogutu where he has deponed that he served the decree on 9 May 2013. It is therefore apparent that despite being served with the decree and 30 days from service having lapsed, the defendant has failed to move out of the suit land.

I have no other option but to order that he be evicted from the suit land. I therefore allow this application. I direct the plaintiff to appoint a court bailiff to execute the order of eviction. I also direct the OCS Kaptagat Police Station to assist the court bailiff and provide security to the court bailiff while executing the order of eviction. The defendant shall shoulder the costs of this application and any costs incurred in the eviction.

It is so ordered.

DATED AND DELIVERED AT ELDORET THIS 29TH DAY OF OCTOBER 2014

JUSTICE MUNYAO SILA

ENVIRONMENT AND LAND COURT AT ELDORET

Delivered in the presence of:

Delivered in the presence of:

Ms Adhiambo holding brief for M/s A.K. Chepkonga for the plaintiff.

N/A for defendant.