

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

E&L 919 OF 2012

Formerly HCC 19 of 2012

CHRISTOPHER KENDAGOR.....PLAINTIFF

VS

CHRISTOPHER KIPKORIR.....DEFENDANT

(Application to execute decree before taxation of costs; decree passed close to one year yet costs have not been taxed; application allowed)

RULING

The plaintiff has filed an application dated 25 September 2014 seeking orders to be allowed to execute the decree herein before the bill of costs is taxed.

The claim herein revolved around the ownership of the land parcel Moiben/Kapsumbere Block 2 (Tachasis)/111 which the defendant alleged to have purchased. I heard the matter and on 9 October 2013, I passed judgment in favour of the plaintiff. I decreed inter alia that the plaintiff is the rightful owner of the suit land and ordered the defendant to vacate the said land within 14 days failing which he would be evicted.

Through this application, the plaintiff has stated that he has been unable to execute the decree since the bill of costs has not been taxed. The reason that the bill of costs has not been taxed is that the Deputy Registrar is away on leave.

I note that judgment was delivered about a year ago. The delay in executing the decree is because the costs are yet to be taxed. The taxing of the bill of costs is obviously causing the plaintiff unnecessary delay as he is entitled to his land.

The defendant has not filed anything to oppose the subject application and indeed his counsel did not appear in court when the application was argued. I see no reason why I should not grant the application. I allow the application and permit the plaintiff to apply to execute the decree before taxation of costs.

I make no orders as to the costs of this application.

It is so ordered.

DATED AND DELIVERED AT ELDORET THIS 7TH DAY OF OCTOBER 2014

JUSTICE MUNYAO SILA

ENVIRONMENT AND LAND COURT AT ELDORET

Delivered in the presence of:

Delivered in the presence of:

Mr. P.K. Kibii holding brief for M/s Anassi Momanyi & Co for plaintiff/applicant.

N/A for M/s Chepseba Lagat for defendant/respondent.