



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET**

**E&L 895 OF 2012**

*Formerly HCC 140 of 2012*

**JOHNSTONE AMULIOTO AYUB ..... PLAINTIFF**

**VS**

**PETER MWANGI NJUGUNA..... DEFENDANT**

**RULING**

The plaintiff/applicant has brought an application Under Section 3 and 3A of the Civil Procedure Act, and Order 29 (1) of the Civil Procedure Rules. He wants this court to issue orders to have the defendant evicted from the land parcel Moi's Bridge/Ziwa Block 16 (Chebarus)/ 114.

The plaintiff in this suit purchased the suit land by way of public auction. The suit land was initially owned by the defendant who had charged it to the Bank of Baroda Ltd. He defaulted and the bank in exercise of its statutory powers of sale, sold the land to the plaintiff by way of public auction. The property was then transferred to the plaintiff. The defendant however remained on the suit land despite the transfer to the plaintiff. The plaintiff then filed this suit seeking to have the defendant evicted from the suit land.

Judgement was duly entered for the plaintiff on 2nd May 2013. The defendant has been served with the decree but has refused to leave the land. It is for this reason that the plaintiff now seeks orders to have the defendant evicted or removed by the OCS Matunda Police Station.

Although the application is said to be premised upon Order 29, that cannot be so, for Order 29 deals with proceedings against the Government. I will take this to be a mere irregularity which does not affect the substance of the application.

In my view, this application must succeed. The plaintiff needs to enjoy the parcel of land which is now his. I therefore issue orders that the defendant be evicted from the suit land. I direct the plaintiff to apply for execution by way of an eviction order and appoint a bailiff to execute the order . I also direct the OCS Matunda Police Station to provide security to the court bailiff when executing the eviction order.

The defendant shall bear the costs of this application and the costs of eviction.

It is so ordered.

DATED, SIGNED AND DELIVERED THIS 3RD DAY OF OCTOBER 2013

**JUSTICE MUNYAO SILA**

**ENVIRONMENT AND LAND COURT AT ELDORET**

*Read in open Court*

***In the Presence of:-***

***Miss J.C. Tarus holding brief for Miss Mufutu of M/s Manani Lilan & Co for applicant.***

***Defendant absent***