



Mukirai & 4 others v Omondi & 5 others (Environment & Land Case 484 of 2009) [2024] KEELC 3297 (KLR) (22 April 2024) (Ruling)

Neutral citation: [2024] KEELC 3297 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 484 OF 2009**

MD MWANGI, J

APRIL 22, 2024

BETWEEN

**CHRISTOPHER MATHEA MUKIRAI 1ST PLAINTIFF
JANE CHEPKOECH 2ND PLAINTIFF
PAULINE KIROMBO 3RD PLAINTIFF
EVANS MWAMUNGA MAZOI 4TH PLAINTIFF
GRACE MWAHIKI 5TH PLAINTIFF**

AND

**MICHEAL OMONDI 1ST DEFENDANT
PETER MWANGI 2ND DEFENDANT
SARAH WAIRIMU 3RD DEFENDANT
BONIFACE GITHINJI 4TH DEFENDANT
PASTA JUDAH 5TH DEFENDANT
AMAKARU ABOYE 6TH DEFENDANT**

RULING

(In respect to the Notice of Motion dated 29th January, 2024 by the Plaintiffs/Decree holders) brought under the provisions of Order 22 rule 29 of the Civil Procedure Rules and Section 3A of the Civil Procedure Act)



Background

1. Way back on 23rd July, 2012, Nyamweya, J (as she then was) delivered a judgment in this matter in favour of the Plaintiffs against the Defendants. Her finding was that the Plaintiffs had on a balance of probabilities proved that they were the registered owners of LR No. 209/9451. She proceeded to enter judgment in their favour in the following terms:
 - a. That the Plaintiffs herein are hereby declared the owners and entitled to possession of the parcel of land known as LR No. 209/9451.
 - b. That the Defendants are hereby ordered to vacate the parcel of Land registered as LR No. 209/9451 within 60 days of date of service by the Plaintiffs of these orders, failing which execution of decree against them shall proceed.
 - c. The Plaintiffs are awarded the costs of this suit.
2. The Plaintiffs/Decree holders in their application before the court seek eviction orders against the Defendants to remove them from the suit property LR No. 209/9451 pursuant to the judgment/decree of the Court, under the supervision of the Officer Commanding Station (OCS) Buru Buru Police Station.
3. The Plaintiffs/Decree holders explain that the Decree of the Court was served upon each of the Defendants/Respondents on 14th May, 2013. In spite of service, the Defendants/Respondents have failed, refused and or neglected to comply with the Decree. The Applicants therefore pray and seek for eviction orders to forcefully evict the Defendants from the suit property with the assistance of the OCS, Buruburu Police Station.

Determination:

4. On 20th March, 2024, the Court directed that the Plaintiffs' application be personally served upon the Respondents and fixed it for hearing on 11th April, 2024.
5. On the date scheduled for hearing, the 6th Defendant, Amakaru Aboye appeared in person and informed the Court that on his part, he had vacated the suit property in compliance with the orders of the Court. None of the other Defendants appeared despite service.
6. I have confirmed the judgment and Decree of the Court in this file in favour of the Plaintiffs against the Defendants. The Defendants have not shown any cause why they have not complied with the Decree of the Court. Court orders are not made in vain. It is now over 10 years since the Decree was issued.
7. Consequently, I allow the Plaintiffs'/Decree Holders' application as prayed and direct that the Defendants/Respondents herein, their servants, employees and or agents and any other persons claiming under them in occupation of the suit property, LR No. 209/9451 be forcefully removed and evicted under the supervisions of the OCS – Buruburu Police Station.
8. The Costs of this application shall be borne by the 1st – 5th Defendants jointly and severally.

It is so ordered.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI ON THIS 22ND DAY OF APRIL, 2024.

M.D. MWANGI

JUDGE



In the virtual presence of:

Mr. Wamwayi for the Plaintiffs/Applicants

No appearance for the Defendants/Respondents

Court Assistant: Yvette.

M.D. MWANGI

JUDGE

