



Kiniu v Ann Wairimu Ndungu and Stanley Ndungu Murigi Bothe t/a Annrose Nursery and Primary School & another; Ndung'u (Objector) (Environment & Land Case 179 of 2009) [2024] KEELC 5718 (KLR) (29 July 2024) (Ruling)

Neutral citation: [2024] KEELC 5718 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 179 OF 2009**

**LN MBUGUA, J
JULY 29, 2024**

BETWEEN

JOSEPH NDICHU KINIU PLAINTIFF

AND

**ANN WAIRIMU NDUNGU AND STANLEY NDUNGU MURIGI BOTHE T/A
ANNROSE NURSERY AND PRIMARY SCHOOL 1ST DEFENDANT**

EMBAKASI RANCHING COMPANY LTD 2ND DEFENDANT

AND

SUSAN WANJIRU NDUNG'U OBJECTOR

RULING

1. On 23.6.2022, this court rendered judgment for the Plaintiff, granting him ownership of Plot No. A69 and A70 mapped out and demarcated as LR No. Block 105 (Embakasi Ranching) /1927 and LR No. Block 105 (Embakasi Ranching)/1928. As things stand, there are 7 pending applications in the matter relating to execution or stay of execution of the aforementioned judgment. The ruling thereof is slated for delivery on 24.10.2024.
2. When the matter came up on 22.7.202 for directions on the prosecution of the various applications, counsel for the 1st Defendant and objector orally sought a stay order pending the hearing and determination of the various applications. The prayer is unopposed by counsel for the 2nd Defendant, but opposed by counsel for the Plaintiff.
3. There are accusations and counter accusations with the plaintiff averring that the orders given by Judge Angote on 7.3.2024 were not orders of stay, but orders of status –quo which were not extended on



- 7.5.2024. Thus the plaintiff went ahead and executed the decree by evicting the people on the ground on 10.7.2024 and the registration status is that titles were issued in the Plaintiff's name for both parcels.
4. The 1st Defendant and Objector denies that eviction has taken place and contends that Susan Ndu'ngu who had filed objector proceedings which are pending determination is the registered proprietor of the suit parcel as per the official search.
 5. The substantive issues relating to execution and stay of execution of the courts judgment shall be determined in a ruling slated for delivery on 24.10.2024. The parties are not in agreement as to what the ground and registration status of the two suit parcels are post judgment. It is the finding of this court that delving into the question of stay at this stage would in essence be prejudicial to the administration of justice as it would be tantamount to delivery of the ruling scheduled on 24.10.2024 in piecemeal and in advance.
 6. The appropriate order to give is the maintenance of status-quo as at now. Thus an order is hereby issued to the effect that the prevailing status-quo as at 29.7.2024 shall be maintained until the court delivers its ruling on the 7 pending applications on 24.10.2024.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 29TH DAY OF JULY, 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:-

Outa for 1st Defendant and the Objector

Njoroge Ng'ang'a for Plaintiffs

Court assistant: Edde

