



Kavila v Mwambire & 7 others (Sued as committee members of Vikwatani South Residential committee on behalf of all the members occupying parts of plot parcel Number 4391 (Original Number 4390/2 Section II/MN) (Environment & Land Case 284 of 2009) [2024] KEELC 5615 (KLR) (23 July 2024) (Ruling)

Neutral citation: [2024] KEELC 5615 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MOMBASA
ENVIRONMENT & LAND CASE 284 OF 2009**

**NA MATHEKA, J
JULY 23, 2024**

BETWEEN

JACKSON KAVILA PLAINTIFF

AND

WILSON MWAMBIRE 1ST RESPONDENT

CHARLES M MASAHA 2ND RESPONDENT

NGOLOMA KAKENYI 3RD RESPONDENT

HUTCHISON SHUNGULA KUZIDIO 4TH RESPONDENT

MWANAHAMISI NUBI 5TH RESPONDENT

LOISE MEDSA 6TH RESPONDENT

JOHN MIMWA 7TH RESPONDENT

EVALYNE MATANDI 8TH RESPONDENT

SUED AS COMMITTEE MEMBERS OF VIKWATANI SOUTH RESIDENTIAL COMMITTEE ON BEHALF OF ALL THE MEMBERS OCCUPYING PARTS OF PLOT PARCEL NUMBER 4391 (ORIGINAL NUMBER 4390/2 SECTION II/MN)



RULING

1. The application is dated 6th September 2023 and is brought under Section 3A of the *Civil Procedure Act*, Cap 21 Laws of Kenya seeking the following orders;

That this Honourable court be pleased to have the OCPD Bamburi Police Station provide security to the court Bailiff in enforcing the Court Decree dated 5th September, 2016.

1. That the costs of this application be provided for.
2. Which application is supported on the grounds that the Plaintiff filed this suit on 19th August, 2009 against the defendants for vacant possession of plot parcel number 4391 (original number 4390/2) Section II/MN. That on 12th of July, 2012 this case was settled by way of a consent where it was agreed inter alia; That in the event a signing defendant fails to pay the purchase price he/ she shall be evicted upon issuance of one month notice and payment of mesne profits for the period he/ she has been on the property. Thereafter, on 27th of September, 2013 a decree of the consent order was issued. That however, the defendants failed to comply with the decree forcing the Plaintiff to serve a Notice to vacate on 14th of July, 2016. That on 5th September, 2016 an amended Decree was issued after the Plaintiffs' counsel applying for the same vide a letter dated 15th August, 2016. That despite the notice to vacate being served the Defendants have deliberately been non-compliant prejudicing the plaintiff. It is for this reason that the Plaintiff wishes to enforce the warrant granted to the court Bailiff on 16th November, 2016.
3. Looking at this application I find that the same is an execution matter and ought to be placed before the Deputy Registrar and not this court. I therefore refer this matter the Deputy Registrar for hearing and determination

It is so ordered.

DELIVERED, DATED AND SIGNED AT MOMBASA THIS 23RD DAY OF JULY 2024.

N.A. MATHEKA

JUDGE

