



REPUBLIC OF KENYA



**Lubanga v Ogur (Environment & Land Miscellaneous Case E015 of 2024)
[2024] KEELC 14218 (KLR) (19 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 14218 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENT & LAND MISCELLANEOUS CASE E015 OF 2024
GMA ONGONDO, J
NOVEMBER 19, 2024**

BETWEEN

SAMUEL LUBANGA APPLICANT

AND

BERNARD OUMA OGUR RESPONDENT

RULING

1. This ruling is in respect of the Notice of Motion dated 11th September 2024 by the applicant through Veronica Migai and Company Advocates for the following orders;
 - a. That honourable court do issue evictions order against the Respondent and or/his agents and warrants of vacant possession be issued to the Court Bailiff to deliver vacant possession of six (6) acres portion of parcel of land known as Kanyamkago/Kawere II/1373 (Hereinafter referred as to the suit property to the applicant.
 - b. That the OCS Uriri Police Station does supervise the eviction and provide security.
 - c. That costs of this application be provided for.
2. The application is based on grounds, inter alia;
 - a. The applicant filed an Appeal in this court, wherein upon hearing and determination of the said Appeal, the Honourable Court pronounced its Judgment in favour of the applicant as follows;
 - i. That the Appeal be and is hereby allowed.
 - ii. That the Judgment and Decree delivered on 1st august 2019 , in Migori Environment and Land Case No. 17 of 2018 at Migori Chief Magistrate’s Court by Hon. M. Obiero,PM be and is hereby set aside.



- iii. That the defendant be and is hereby compelled to cause the transfer of the six (6) acres of parcel no. Kanyamkango/Kawere II/1373 to the plaintiff and to execute the relevant documents necessary for transfer to that effect.
3. In summary, the applicant contended that the decree dated 29th July, 2021 was extracted and served upon respondent but he refused to comply with the same. That the respondent was equally served with the eviction notice in accordance with sections 152A, 152B, 152E and 152F of the Land Act, 2016 but he still ignored the same, thus prompting of the present application. Annexed to the supporting affidavit is a copy of the said Notice of Eviction dated 20th September, 2021 marked as “SLO4” herein.
 4. Mr Elvis Adingo learned counsel for the applicant informed the court that the respondent was duly served as revealed in the affidavit of service sworn on 24th October 2024. That there was no response to orders 1, 2 and 3 sought in the application hence, the same are unopposed.
 5. So, is there merit in the application?
 6. The respondent was duly served with the application in the spirit of a fair opportunity to be heard being a fundamental principle of justice; see Halsbury’s Laws of England 5th Edition 2010 Volume 61 paragraph 639.
 7. Besides, the respondent opted not to respond to the application; see Ogada-vs-Mollin (2009) eKLR.
 8. Having noted the entire application inclusive of the decree (SL01) and Ruling (SLO2) as well as the eviction notice (SLO4), sections 152A, 152B, 152E and 152F of the Land Act 2016 (2012), were complied with in this application.and eviction notice-SLO4
 9. Clearly, the application is unopposed and meritorious.
 10. Accordingly, the application is hereby allowed in terms of orders as stated in paragraph 1 (a) and (b) hereinabove.
 11. The costs of the application to be borne by the respondent.

DATED AND DELIVERED AT MIGORI THIS 19TH DAY OF NOVEMBER 2024

G M A ONGONDO

JUDGE

Elvis Adingo learned counsel for the applicant

Tom Maurice, court assistant

