



Imala v Impact Investments Limited & 3 others (Environment & Land Case E183 of 2024) [2024] KEELC 13352 (KLR) (14 November 2024) (Judgment)

Neutral citation: [2024] KEELC 13352 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E183 OF 2024
LN MBUGUA, J
NOVEMBER 14, 2024**

BETWEEN

SIKO WOCHE IMALA PLAINTIFF

AND

IMPACT INVESTMENTS LIMITED 1ST DEFENDANT

**JOSEPH NJENGA WANDUI & DAVID OMONDI BUOP T/A PETRO
GAP 2ND DEFENDANT**

ABDULWAHID MAALM T/A SCREEN REPUBLIC GAMING 3RD DEFENDANT

HENRY OCHIEL T/A FAVOURNATT'S CEREALS 4TH DEFENDANT

JUDGMENT

1. This suit was filed by way of an Originating Summons dated 2.5.2024 where the applicant contends that he purchased the suit property L.R NO. 209/10669/5 on 27.10.2023 from an auction carried out on behalf of African Banking Corporation Limited, and the title was transferred to him. Thereafter, he entered into an agreement with the 2nd, 3rd and 4th defendants who were tenants of the 1st defendant to vacate the suit premises by 1.5.2024 and they were then issued with statutory demand notices to vacate but they did not comply.
2. The applicant therefore prays that the defendants be ordered to vacate the suit premises and an order of permanent injunction be issued against them restraining them from interfering with the suit premises. He also seeks an order for the OCS Industrial area to assist in the eviction of the defendants.
3. The defendants were served but no responses were filed. However, the firm of Kaveke Mwanja advocates did file a notice of appointment for the 1st defendant dated 19.9.2024, but nothing else was filed.



4. On 17.10.2024, the applicant informed the court that the 2nd – 4th defendants had left the suit premises and proceeded to withdraw the case against them. Thus this judgment is in respect of the 1st defendant only.
5. I find that amongst the documents availed by the applicant is the certificate of title indicating that the applicant was registered as the owner of the suit property on 20.12.2023. There are also several notices issued to the 1st defendant to vacate the suit premises. The evidence tendered by the applicant has not been challenged.
6. In *Samson S. Maitai & Another V. African Safari Club Limited & Another* [2010] eKLR, the court stated that;

“Proof refers to evidence which satisfies the court as to the truth or falsity of a fact. Generally, as we well know, the burden of proof lies on the party who asserts the truth of the issue in dispute.”

7. And in the case at hand, I find that the applicant has proved his case to the required standard. Thus judgment is entered for the applicant against the 1st defendant in the following terms;
 1. An order of eviction of the 1st defendant is hereby issued.
 2. An order of injunction is issued against the 1st defendant restraining it from interfering with the suit premises.
 3. An order is hereby issued to the OCS Industrial Area Police Station to assist in the eviction process.
 4. The 1st defendant is condemned to pay costs of the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14th DAY OF NOVEMBER 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Odera for Plaintiff

Awour for Defendant

Court Assistant: Vena

