



In the Missouri Court of Appeals Eastern District

WRIT DIVISION VII

STATE OF MISSOURI, ex rel., ELAINE	)	No. ED107249
TAYLOR, RELATOR,	)	
	)	Writ of Prohibition and Mandamus
	)	
vs.	)	Cause No. 1611-FC00388
	)	St. Charles County Circuit Court
THE HONORABLE JACK C. BANAS,	)	
RESPONDENT.	)	DATE: December 11, 2018

OPINION

Relator, Elaine Taylor ("Relator"), filed a petition for entry of a writ of prohibition and mandamus directing Respondent not to take any action to forcibly remove the Relator from 60 Tahoma Drive in Foristell, Missouri ("Property"); to order Respondent to vacate the February 21, 2018 order appointing the commissioner; and to order the Respondent to appoint a receiver to monitor the sale of the real estate as permitted under Missouri law. In the alternative, Relator requested that she be granted an evidentiary hearing before she is dispossessed of her possessory rights to Property. After reviewing the suggestions filed in support of the petition, this Court entered a preliminary order in prohibition directing Respondent to file his answer and suggestions in opposition to the petition in prohibition on or before November 1, 2018. The preliminary order stated that a failure to answer would result in a judgment by default granting the relief demanded in the petition. The preliminary order further directed Respondent to take no action in the underlying matter until further notice.

Respondent did not file an answer to the petition on or before November 1, 2018.

Accordingly, we find Respondent to be in default and enter judgment making permanent the preliminary order in prohibition. State ex rel. Kansas City S. Ry. Co. v. David, 105 S.W.3d 517, 518 (Mo. App. 2003); State ex rel Hayes v. Forder, 973 S.W.2d 555, 556 (Mo.App.1998).

Relator requested alternative remedies in her petition for prohibition and mandamus. Accordingly, we order that Respondent is directed to refrain from any action to forcibly remove Relator from Property until such time as Relator is granted an evidentiary hearing before Respondent regarding the appointment of the commissioner and actions taken with regard to the sale of Property. Respondent is further ordered to conduct the evidentiary hearing within 60 days of the entry of this opinion.


KURT S. ODENWALD, Presiding Judge

Philip M. Hess, J., and Roy L. Richter, J., concur.