



**Kiprotich v Rotich (Environment & Land Case 382 of 2017)
[2023] KEELC 19205 (KLR) (27 July 2023) (Judgment)**

Neutral citation: [2023] KEELC 19205 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT & LAND CASE 382 OF 2017**

EO OBAGA, J

JULY 27, 2023

BETWEEN

JESUGUT TAMINING KIPROTICH PLAINTIFF

AND

ANTHONY KIPKETER ROTICH DEFENDANT

JUDGMENT

1. The plaintiff is mother to the defendant. The plaintiff filed this suit against the defendant claiming the following reliefs:-
 - a. A declaration that the plaintiff is the lawful owner of land parcel number Cheptiret/Cheplaskei Block 3 Sertwet)/256 and the Defendant is a trespasser on the said parcel of land.
 - b. An eviction order and an order of permanent injunction permanently restraining the defendants either acting by himself and or agents from in any manner interfering with the Plaintiff's land parcel number Cheptiret/Cheplaskei Block 3 Sertwet)/256 and the defendant is a trespasser on the said parcel of land.
 - c. Costs of this suit.
 - d. Any other relief as this honourable court may deem fit to grant.
2. The defendant who was duly served neither entered appearance nor filed defence. The hearing therefore proceeded by way of formal proof.
3. The plaintiff testified that she is the registered owner of LR. No. Cheptiret/Cheplaskei Block 3 (Sertwet)/256 (suit property). The Plaintiff was given the suit property by her husband after her husband subdivided his land which was known as LR. No. Cheptiret/Cheplaskei Block 3 (Sertwet)/76.



4. The defendant has his own parcels of land being Pioneer/Ngeria Block 1 (EATEC)/1837 measuring 2.023 hectares, 20 acres at Kamukunji (a Plateau area), 12 acres at Kamukunji (Plateau area), 5 acres at Annex area and several plots at Kabongo area along Eldoret – Nairobi road.
5. The plaintiff has severally asked the defendant to move out of the suit property but the defendant has refused to move out. The defendant has severally threatened to assault the plaintiff. He has been planting on the suit property by force and his son assaulted her. Both the defendant and his son have been charged in court in criminal cases.
6. I have gone through the documents produced by the plaintiff. The plaintiff produced her ID card as exhibit. She also produced copy of title as exhibit 2. She also produced a copy of a letter dated 24/3/2016 from Assistant County Commissioner Kesses Division as exhibit 3 which shows that the Defendant has been causing problems to the plaintiff.
7. The plaintiff too produced a copy of a P3 form showing that she was assaulted by her grandson. She also produced two bonds to attend court against the Defendant and an extract of the occurrence book as exhibits 4, 5, 6, 7 and 8 respectively. This evidence was not controverted.
8. The defendant has his own properties which are far much larger than those of the Plaintiff. The Defendant is a teacher who should not be troubling his aged mother. I find that the plaintiff has proved her case on a balance of probabilities. I allow the plaintiffs case in terms of prayers (a) (b) and (c) of the plaint dated 22/8/2017.

DATED, SIGNED and DELIVERED at ELDORET on this 27th day of JULY, 2023.

E. O. OBAGA

JUDGE

In the virtual absence of parties who were aware of the date of delivery of the judgement.

Court Assistant –Laban

E. O. OBAGA

JUDGE

27TH JULY, 2023

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