

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS

ELC. CASE NO.150 OF 2014

JAPHETH MUSYOKA MUTISYA.....1ST PLAINTIFF

REDEMPTOR MUENI MUSYOKA2ND PLAINTIFF

VERSUS

ABEL MUSYOKA MUTHI.....1ST DEFENDANT

COUNTY LAND REGISTRAR, MACHAKOS2ND DEFENDANT

THE HON. ATTORNEY GENERAL3RD DEFENDANT

JUDGMENT

1. In the Plaint dated 15th October, 2014, the Plaintiffs have averred that they are the registered owners of parcel of land known as Ndalani/Ndalani Block 1/446; that when they conducted a search on the land, they found a caution had been placed on the land by the 1st Defendant and that the said caution should be removed.
2. The 1st Defendant filed a Defence in which he averred that he purchased the suit land from the Plaintiffs for Kshs. 100,000 and that he registered the caution on the suit land when he learnt that the Plaintiffs intended to sub-divide it.
3. The 2nd and 3rd Defendants averred that there is no evidence that the Plaintiffs sought for the removal of the caution and that the suit was prematurely filed.
4. Although the Defendants were served with a hearing notice, they did not attend court when the matter came up for hearing on 21st November, 2011. The matter proceeded for hearing in their absence.
5. The 1st Plaintiff, PW1, informed the court that he does not know why the 1st Defendant registered a caution over parcel of land known as Ndalani/Ndalani Block 1/446 and that the same should be lifted by the court.
6. In the absence of any evidence by the 1st Defendant on why he caused a caution to be registered on the suit land, I find that the Plaintiffs have proved their case on a balance of probabilities. I therefore allow the Plaint as prayed, save for general damages.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 13TH DAY OF APRIL, 2018.

O.A. ANGOTE

JUDGE