

REPUBLIC OF KENYA.

IN THE HIGH COURT OF KENYA AT BUNGOMA

ENVIRONMENT AND LAND CASE NO. 95 OF 2016.

MODE OF PROCEEDINGS.....1ST PLAINTIFF

GODFREY WAMALWA LWANDA.....2ND PLAINTIFF

VERSUS.

CHARLES WEKHOMBA.....DEFENDANT

JUDGMENT

[1].The Plaintiff claim is that he is the registered owner of land parcel Kimilili/Kimilili/1149. That on 2nd September 2016, the defendant unlawfully stopped him from constructing a permanent house on his aforesaid parcel and that the Defendant planted napier grass thereon. The plaintiff alleges that the plaintiff's intention is to trespass on the plaintiffs land. He has set the particulars of the intended trespass. He prays for a permanent injunction restraining the defendant by himself, his servants or agents from interfering with the possession and use of the land. He further prays for an order of eviction.

[2].The defendant who was served, filed no pleadings. During the hearing the Plaintiff produced a copy of his title deed. That on 2/9/2016 the defendant came and stopped him from constructing his house. However, he told the court that he is still using the land up to day. He said that he has been on the land since 1994.

[3].Having listened to the Plaintiff, and heard his evidence that he has been on his land since 1994 todate, I am not convinced that he has been prevented by the defendant from the user of his land. There is no dispute referred to the police and or other local authorities. Apprehension and/or intention by itself, is not enough to sustain a case for eviction. This suit has no merits and is dismissed with no order of costs.

Judgment read in open Court in the presence of Mr. Juma.

DATED at BUNGOMA this 23rd day of **May**, 2017.

S. MUKUNYA

JUDGE.

In the presence of:

Joy/Gladys: Court Assistant

Mr. Juma holds brief for Areba for Plaintiff

Defendant In person