



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
ENVIRONMENT AND LAND SUIT NO. 68 OF 2014
STEPHEN MICHUKI KIUNGA.....PLAINTIFF
VERSUS
COUNTY GOVERNMENT OF MERU...DEFENDANT

JUDGMENT

INTRODUCTION

Plaintiff is claiming that he is the rightful owner of the leasehold in Parcel No. MERU MUNICIPALITY BLOCK II/287, having bought the land from Kenya Commercial Bank in a public auction.

Defendant has apparently given the land to other persons. Defendant avers that the suit property is public land and hence not available to the plaintiff.

Although, a statement of defence was filed was back on 29/10/2014, Defence did not file any witness statements or documents to be relied on despite numerous Court orders as appertains compliance. The matter proceeded exparte on 21/2/2017 after the court declined any further adjournment on the side of defence.

PLAINTIFF'S CASE

Plaintiff's evidence is that he is the registered owner of L.R. No. Meru Municipality Block 11/287 and he produced a certificate of lease to that effect as P Ex I. He further stated that he had bought the suit land from K.C.B where the latter was trying to exercise its changee's rights. He produced a copy of transfer of changee document of P Exhibit 2.

Plaintiff further avers that when he tried to fence the plot he was prevented from doing so by Defendant. He has however been paying rates, taxes and he produced receipts to that effect on P E3.

DETERMINATION:

The issue for determination is one, "**Whether plaintiff is the Rightful owner of the suit land**"?

Plaintiff has produced a Certificate of Lease registered on 24/07/2009. This document is prima facie evidence that plaintiff is the rightful owner of the Suitland, See Section 24 and 25 of the Land Registration Act. The defendants have not given any evidence to the contrary.

I therefore find that the cases cited by plaintiff Azina Said Chepkemoi Vs. Noah Martim Too & 2 others (2015) eKLR and Joseph Nganga Waikwo Vs. Jane Wambui & 3 others (2015) eKLR are relevant in this

matter.

I therefore find that plaintiff has proved his case on a balance of probability.

CONCLUSION

Judgment is hereby entered for the plaintiff against the Defendant in terms of the following:-

- a) A Declaration that the Plaintiff is the registered proprietor of Meru Municipality Block II/287 and the Plaintiff is entitled to its vacant possession thereof.
- b) A permanent order of injunction, restraining the Defendant, its agents, employees, contractors, officers, successor or anybody else acting at the Defendant's direction, employment contract or in any manner whatsoever, from forever interfering with the Plaintiff's ownership, user occupation and enjoyment of Meru Municipality Block II/287.
- c) Plaintiff is awarded costs of the suit.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT MERU THIS 21ST DAY OF SEPTEMBER, 2017 IN THE PRESENCE OF:-

CA:Janet

Mr. Mwirigi for Plaintiff

Mr. Kibiti for Defendant

Hon. L .N. MBUGUA

ELC JUDGE

Kibiti: I pray for a certified copy of Judgment.

Order: - Certified copy of Judgment to be availed to Parties.

Hon. L .N. MBUGUA

ELC JUDGE