



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERICHO
CIVIL SUIT NO.57 OF 2001 (O.S)

PAUL KIPKURUI TOWETT.....PLAINTIFF

(Suing through his best friend and next of kin, Paul Kipkurui Towett)

VERSUS

GRACE CHELULE.....DEFENDANT

RULING

(Application for eviction; judgment entered for the plaintiff for some land; defendant vacating and then re-entering the land; no basis to do so; eviction order issued)

The application before me is that dated 13 April 2012. It seeks orders that the defendant be evicted from the land parcel Kericho/Silibwet/2664. The application is premised on the grounds inter alia, that :-

- (a) By a judgment dated 16th June 2006 which judgment has not been set aside, the honourable court decreed that the applicant was lawfully entitled to half the portion of L.R No. Kericho/Silibwet/88.
- (b) Pursuant to the said judgment the suit land was sub-divided into two equal portions and one of the resultant portions, L.R No. Kericho/Silibwet/2664 was registered in the applicant's name in April 2008.
- (c) Upon the said sub-division, the respondent herein delivered up possession of the land to the applicant.
- (d) In April 2010, the respondent and her three sons re-entered the applicant's land and forcefully took possession and have refused to vacate.
- (e) The respondents continued to stay on the land is a denial of the applicant's right to his property.

The application is supported by the affidavit of Paul Kipkurui Towet, the applicant. He has more or less repeated what is stated in the grounds supporting the application.

The suit itself was commenced on 17 July 2001. The plaintiff is Kiplangat Ngeno, suing through Paul Kipkurui Towet. The claim was for 2.2 hectares out of the land parcel Kericho/Silibwet/88. No defence was filed within the stipulated period and the matter proceeded ex-parte. Judgment was entered for the plaintiff by Musinga J (as he then was), on 16 June 2006. The defendant filed an application to set aside the said judgment, but that application was not successful, meaning that the judgment of 16 June 2006 remained undisturbed. An application dated 21 December 2006 was later made to have the Deputy Registrar execute mutation forms so as to transfer the 2.2 hectares to the plaintiff. This application was allowed and the land sub-divided as decreed. Paul Kipkirui Towet is now registered as proprietor of the land parcel Kericho/Silibwet/2664 pursuant to the decree herein.

I am satisfied that the title of the applicant was received pursuant to the judgment and decree herein. There is no reason why the respondent and/or his assigns continue being on the suit land. They have indeed not replied to this application despite being duly served. I see no reason why I should not allow this application. It is hereby allowed. I do issue an order evicting the defendant/respondent alongside her servants/agents from the land parcel Kericho/Silibwet/2664. I direct the plaintiff to appoint a court bailiff to execute the order of eviction and further order the nearest police station to provide security for the exercise. The defendant shall pay the costs of this application and the costs of the eviction exercise.

Orders accordingly.

Dated, signed and delivered in open court this 28th day of January, 2015

MUNYAO SILA

JUDGE,

ENVIRONMENT AND LAND COURT

In the presence of

..... for the Applicant

..... for the Respondent

Lilian- court assistant