



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
LAND & ENVIRONMENT CASE NO.156 OF 2014

LEVINOUS KAKA OMUMALAKANI.....PLAINTIFF

VERSUS

JANE NASAMBU.....1ST DEFENDANT

PRISCAH NASIMIYU.....2ND DEFENDANT

CATHERINE NYAMBURA.....3RD DEFENDANT

JUDGEMENT

The plaintiff filed this case against the defendants for an order directing the defendants, their agents, employees, servants or any other person claiming through the defendants to give vacant possession of LR No. Bungoma/Naitiri/1907.

He also claims that the defendants do remove all illegal structures erected by them therein.

Further the plaintiff asks for a permanent injunction restraining the plaintiffs by themselves, their agents, employees, servants and any other person from interfering with the plaintiff's proprietary rights as by Law provided.

They also prayed for costs of the suit.

The defendants were served with summons to enter appearance, plead and verify Affidavits and other annexures on 27/8/2014 and return of service by Mr. Stephen Nerima Munyanya is filed in the Court file.

The defendants failed to file appearance and/or defence and this case was fixed for formal proof on 13/5/2015.

The plaintiff in this case told the Court How he purchased the land through an agreement dated 17th January 2011 with mzee Vincent Wanyama.

He said he bought 2 acres for Kshs.630,000/-. The two acres were to be hived from Bungoma/Naitiri/652. He said he attended the relevant Land Control Board and he got his title Bungoma/Naitiri/1907 and a title was issued in his name.

The Court was shown the original copy of the same.

He said that he took possession in 2012 but failed to continue with farming since the seller's sisters

continued to have a dispute with the seller. He went to the land who issued a demand on 23/7/2014 produced in Court as Plaintiff's Exhibit No.3. He told the Court that there was a land dispute Tribunal No.25 of 2009 between Vincent Wanyama and Catherine Nyambura which was dismissed by the Court on 4/2/2012. Copies of the same were produced in Court as P. Exhibit No.5.

The plaintiff argued the Court to allow his prayers in the plaint.

The plaintiff then called Mr. Vincent Wanyama who told the Court that he stays at Tongareni and is a farmer. He said he knows the plaintiff herein. That he had sold land to him from his parcel number 682. He said he was paid the money. He said that parcel No.682 was his land.

Further that his sisters had been chasing the plaintiff from the land.

He stated that his sisters had land elsewhere. That he subdivided the land and gave the plaintiff his two (2) acres after attending the relevant Land Control Board. He said that his sisters took him to the Land Disputes Tribunal and lost their claims.

Having heard the plaintiff and his witness the Vendor who sold the land to him I am convinced that he purchased the land legally, went to the Land Control Board and obtained the consent to do so.

The evidence of the plaintiff has not been controverted, or challenged in any way. The defendants were properly served and never entered appearance.

I allow the plaintiff's claim as prayed with costs. It is so ordered.

Dated and Delivered at BUNGOMA this 23rd day of June, 2015

S. MUKUNYA

JUDGE