



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

E & L 87 OF 2012

MAGIRI KIRIMI M'RIMBERIA.....PLAINTIFF

VERSUS

PETER MATI KAIMBIRI.....DEFENDANT

J U D G E M E N T

This suit was filed by way of a plaint dated 13.9.2012 and filed on 14.9.2012. The plaintiff prays for judgment against the defendant for:

a) A declaration that the plaintiff is the absolute registered proprietor of all that Land Registration No. **KIAMURI "A"/1160**.

b) A permanent order of injunction restraining the defendant, his agents, workers, assigns, successors in title or anybody else acting at his behest, direction or contract, from forever trespassing, entering, occupying, possessing or in any way interfering with the plaintiff's user, enjoyment, occupation and possession of **L. R. No. KIAMURI "A"/1160**.

c) Costs of the suit.

The defendant having been served with summons to enter appearance, plaint, notice of motion and court order and having failed to enter appearance and/or file a defence within the stipulated time, and upon request by the plaintiff's counsel **M/S MWIRIGI KABURU & Co., ADVOCATES**, an interlocutory judgment was entered for the plaintiff against the defendant as prayed on 29th November 2012.

Formal proof hearing took place on 2.7.2013.

The plaintiff, Magiri Kirimi M'Rimberia gave evidence that he hailed from Nchuri Location, Ambogeta West Division, Meru County. Until 2002, he was a manager at Leather Industries in Thika. After the Company was closed he embarked on conducting his own businesses. He was also a part-time teacher in secondary schools.

He testified that **L. R. No. KIAMURI "A"/1160** originally belong to his father who transferred it to him on 18.6.2008. On 1.7.2008 he got his title deed whose original he showed the court and produced a copy thereof as an exhibit. This piece of land is in Kiagu Sub-location, Kiamuri Location, Abothuguchi Division, Meru County.

He gave evidence that he knew the defendant Peter Mati Kaimbiri who had on many occasions invaded his land and cultivated it with his workers and agents without his consent. The defendant and his

agents would invade his land on Sundays. He would plough and plant on the same day. Then He would do the weeding on another day. He would then harvest on a single day. All these activities were conducted on Sundays.

The plaintiff testified that he had attempted to restrain the defendant from invading his land without success. The Chief of the area where his land was located and police officers had tried to intervene without success. Eventually, they had advised him to obtain a court order. This is the reason why he had sued the defendant.

He requested the court to declare him the registered owner of his land. He sought a permanent order of injunction as prayed in his plaint. He also prayed that costs be awarded to him.

I find that the plaintiff has successfully formally proved his case. I, therefore, enter judgment for the plaintiff in the following terms:

1. A declaration is made that the plaintiff is the absolute registered proprietor of all that land Registration **L. R. No. KIAIMURI "A"/1160**.
2. A permanent order of injunction do issue restraining the defendant **PETER MAITI KAIMBIRI**, his agents, workers, assigns, successors in title or anybody else acting at his behest, direction or contract, from forever trespassing, entering, occupying, possessing or in any, way interfering with the plaintiff's user, enjoyment, occupation and possession of **L. R. No. KIAMURI "A"/1160**.
3. Costs are awarded to the plaintiff.

It is so ordered.

Delivered and signed in open court at Meru this 7th day of April 2014 in the presence of:

Cc. Daniel/Christine

Mwirigi for the Plaintiff

P. M. NJOROGE

JUDGE