



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KITALE**

**LAND CASE NO. 90 OF 2013**

**LUCY NEKESA NAMONYO ..... PLAINTIFF**

**VERSUS**

**FELIX WEKESA WEPUKHULU ..... DEFENDANT**

**J U D G E M E N T**

1. The Plaintiff is the daughter of the late Jackson Namonyo Nabusoba (deceased) who was the registered owner of Plot No. Ndivisi/Muchi/6562. The deceased died on 16/10/2006. The deceased's two widows took out letters of administration in respect of the estate of the deceased. After confirmation of the grant the estate of the deceased was distributed amongst the beneficiaries one of whom is the plaintiff.

2. The Plaintiff got a plot measuring 0.046 of an hectare. A title deed was issued in her name on 18/2/2013. It would appear that before the distribution of the estate of the deceased, one of the administratrix of the deceased's estate had sold some parcels of land to other people among them the defendant. When the distribution was done, it happened that the plaintiff's land fell on where the defendant had bought land from one of the administratrix who is her step mother.

**PLAINTIFF'S EVIDENCE**

3. The plaintiff testified that upon obtaining a title deed in her name, she wrote a demand letter (exhibit 5) to the defendant asking him to move out of her land. The defendant never responded to the demand letter issued on 8/3/2013. This prompted the plaintiff to file suit against him seeking eviction order from her plot known as Ndivisi/Muchi/8218.

4. The plaintiff produced title deed in respect of the suit land (exhibit 3). She also produced a green card showing the history of the land (exhibit 4). The plaintiff also produced grant of letters of administration as well as confirmed grant (exhibit 1 and 2 respectively).

**ANALYSIS OF EVIDENCE**

5. The defendant who was duly served with summons to enter appearance neither entered appearance nor filed defence. The hearing proceeded by way of formal proof. I have gone through the documents produced by the plaintiff as well as her evidence in court. There is no doubt that she was registered as owner of the suit land by way of transmission. Her step mother who sold the land to the defendant was given her own share of her husband's land. She was therefore expected to sell land from her portion of the inheritance. The plaintiff's evidence is uncontroverted.

**D E C I S I O N**

6. I find that the plaintiff has proved her case on a balance of probabilities. The defendant has no business remaining on her land. The defendant should be evicted from the said land. The plaintiff is also granted costs of the suit.

Dated, signed and delivered at Kitale on this 30th day of June, 2014.

**E. OBAGA**

**JUDGE**

**COURT** Judgement delivered in open court at 9.33 a.m. in the absence of Plaintiff's advocate who was aware of today's date. Court Clerk – Kassachoon.

**E. OBAGA**

**JUDGE**

**30/6/2014**