



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT MALINDI**

**ELC CIVIL CASE NO. 102 OF 2014**

**ALEXANDER M'MIRINGAM'MAUTA.....PLAINTIFF**

**=VERSUS=**

**COUNTY GOVERNMENT OF KILIFI.....DEFENDANT**

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

**Introduction:**

1. By way of a Plaint dated 23<sup>rd</sup> June, 2014, the Plaintiff alleged that on or about 4<sup>th</sup> June, 2014, the Defendant, through its servants, agents or employees, trespassed on plot number 12183, Malindi which is registered in his name.
2. The Plaintiff is seeking for a permanent injunction to restrain the Defendant or its agents from dumping garbage, constructing, building a concrete dumping site or interfering in any manner with the suit property.
3. Although the Defendant was served with the Plaint and the Summons to Enter Appearance, it neither entered appearance nor filed a Defence.
4. The matter proceeded for formal proof on 3<sup>rd</sup> November 2014.

**The Plaintiff's case**

5. The Plaintiff, PW1, informed the court that he is the registered proprietor of plot number 12183, Malindi. The Plaintiff produced in evidence the certificate of title as PEXB 1.
6. It was the evidence of PW1 that people have been dumping garbage on the suit property, and that the Defendant has encouraged the said dumping to go on.
7. The Plaintiff produced in evidence photographs showing the Defendant's machinery on the suit property.
8. The Plaintiff has proved on a balance of probabilities that he is the registered proprietor of the suit property. The Plaintiff is therefore entitled to quiet and peaceful enjoyment of the same.
9. In the circumstances, I allow the Plaintiff's Plaint and make the following orders:

**(a) A permanent injunction be and is hereby issued restraining the Defendant, its agents, servants, employees and or any other person acting on its behalf from dumping garbage, constructing, building a concrete dumping site and/ or interfering in any manner with the Plaintiff's plot number 12183 Malindi.**

**(b) The Defendant is hereby compelled to collect and/or clean up the garbage**

**already dumped on the Plaintiff's plot number 12183, Malindi.**

**(c) The Defendant to pay the costs of the suit.**

Dated and delivered in Malindi this **21<sup>st</sup>** day of **November**, 2014.

**O. A. Angote**

**Judge**