

COPY

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MOMBASA

ELC. NO. 214 OF 2013

AMINA MBARA AWADHI

AHMADA HAMID PLAINTIFFS

- VERSUS -

SWALEH ABUBAKAR DEFENDANT

JUDGMENT

[1] The plaintiffs claim against the defendant is that the defendant has encroached by 29.578M Square in to their plot subdivision Number 9083 (original No. 6208/19) of Section 11 Mainland North. The plaintiffs say that they want to start building a home but are prevented to do so by the trespass of the plaintiff on their land. They aver that they have given the defendant sufficient time to give up vacant possession. The plaintiffs requested for judgment on 29th January, 2014 after service on the defendant and failure by the defendant to enter appearance.

[2] Ahmada Ahmed Hamid gave evidence and explained how the defendant has entered his plot and that half of his house is on the plaintiffs land at Mishomoroni. He informed the court that he bought his house in 2004 and produced a title deed. He gave evidence that he has asked the defendant to remove his structures. That he has not done so. that he continues to build and he says that he will not move.

The plaintiff said that he needed an order to ask the defendant to move out of his land and place back the beacons.

[3] The defendant was served in this case and he did not enter appearance. The plaintiffs evidence herein is not controverted at all. The plaintiffs claim against the defendant succeeds and is allowed as prayed in the plaint.

Dated and delivered in open court at Mombasa this 14th day of November, 2014.

S. MUKUNYA

JUDGE

14.11.2014

In the presence of:

Miss. Fwaya advocate for Mr. Kideki advocate for the plaintiff'