



succeeded. The defendant appealed but her appeal was dismissed. He stated that the defendant is staying on the suit land with another man and that she has no claim to the property and that therefore she should be evicted from the land.

I have gone through the plaintiff's statement of claim as well as the evidence adduced by him and that of PW2. This evidence is not controverted as there was no evidence adduced on the part of the defendant. The plaintiff has succeeded in showing that he is the owner of the suit land. There is an assignment produced. The plaintiff has also produced receipts from the County Council of Wareng showing that he has been paying rates. The plaintiff has been paying rates. The plaintiff has also shown by evidence that he had brought a case against the defendant where he succeeded but the present defendant appealed. The appeal was struck out on grounds that there was no decree included in the memorandum of appeal. There is no evidence adduced to show the nature of the property whether it was a matrimonial home of the defendant and the witness of the plaintiff herein. The proceedings in the lower court were also not produced. However, be that as it may, the plaintiff has at least established his case on a balance of probabilities. I find that he is the owner of the property in issue. His evidence has been corroborated by that of PW2 who actually sold the land to him. This being my finding, I do not see any reason which will prevent me from allowing the plaintiff's claim. The plaintiff should be evicted from the suit land under supervision of the OCS Moi's Bridge Police station. The plaintiff shall have costs of this suit.

**Dated, signed and delivered at Kitale on this 20th day of March, 2013.**

**E. OBAGA.**

**JUDGE.**

In the presence of Mr. Gatune for plaintiff.

CC – Joan.

**E. OBAGA.**

**JUDGE.**

**20/3/2013.**