

REPUBLIC OF KENYA

High Court at Embu

Civil Case 155 of 2011

AMBROSE KITHAKA NJERUPLAINTIFF

VERSUS

NJERU THITHA 1ST DEFENDANT

J U D G M E N T

The Plaintiff's case against the Defendant is for an order of eviction of the Defendant's family members, agents, servants and/or employees from land parcel No.Mbeere/Kirima/3548 and *mesne profits* 2010. He also prayed for costs.

The record shows the Defendant was served on 2/11/2011 at Kamurugu village. He did not enter appearance nor file defence. Interlocutory Judgment was entered and the matter proceeded to formal proof.

In his evidence the Plaintiff testified that he is the registered owner of land title number MBEERE/KIRIMA/3895. He even produced a copy thereof as (PEXB1). He further stated that the Defendant moved onto this land in 2009 without his authority. Attempts to remove or have the Defendant removed through the administration has not born any fruits. He therefore asked the Court to assist him remove him.

The Plaintiff has produced in Court a title in the names of AMBROSE KITHAKA NJERU ID NO.3616341. The title deed was issued on 26th May 2011. He also produced a receipt of the same date shs.1500/= being fees for the title deed. There is nothing on record challenging this title deed or ownership of the land. The Defendant has not challenged the Plaintiff's claim of ownership through a defence or even appearance. The Plaintiff had made a prayer for *msne profits*. This is a special damage and must be specifically pleaded and proved. He did not do that.

I do find that the Plaintiff is the rightful owner of the land number MBEERE/KIRIMA/3548. I therefore enter Judgment for him in terms of prayer number one of his plaint. He will also get costs plus interest.

DATED, SIGNED AND DELIVERED AT EMBU THIS 15TH DAY OF MAY 2013.

**H.I. ONG'UDI
J U D G E**

**In the presence of;
Mr. Momanyi for Plaintiff
Plaintiff
Njue – C/c**