



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISUMU

CIVIL SUIT 51 OF 2011

DOMNIC AKUMU NYAJURE.....PLAINTIFF

VERSUS

ROBERT OWUOR OJALLA.....DEFENDANT

J U D G M E N T

The suit was filed here on 13/5/2011 vide a plaint dated 9/3/2011. The plaintiff – **DOMINIC AKUMU NYANJURE** – claims that the defendant – **ROBERT OWUOR OJALLA** – has illegally entered his parcel of land **NO.SIAYA/MAHAYA/247** and commenced developments. It was pleaded that the defendant together with his servants, agents and/or assignees did so in August 2010. The defendant is said to have constructed a home on the land. He has also ploughed the land and planted various crops. He is also excavating murrum for sale.

The plaintiffs asks for an order of eviction, permanent injunction and costs against the defendant.

It appears clear that the defendant was served but he didn't enter appearance and/or file defence. Record shows – see affidavit of service filed on 14/9/2011 and dated the same – that the defendant was served by one **DANIEL RORO OCHIENG NYANGWARA** on 31/8/2011 at 7.24A.m at his house in presence of his wife **DORINE AUMA OWUOR**. **DANIEL** did not know the defendant and was led to his house by the plaintiff who pointed out the defendant to him.

Interlocutory judgment was requested for vide a letter filed on 14/9/2011 and dated the same. The Court entered that judgment on 23/9/2011. The matter was therefore fixed for formal proof, which the court entertained on 20/5/2013:

Only the plaintiff testified and he reiterated much that is already in the plaint. In addition the plaintiff said he got information about the defendants entry into his land while in Eldoret. It was around 14/8/2010 and he travelled and went to defendants home. The defendant chased him away with a panga.

During hearing, the title deed (Plf EX No.1) and a search at Lands office as to ownership of the land (plf EX NO.2) were availed as exhibits.

This matter is not controverted. Interlocutory judgment has already been entered and this is the final judgment. On balance, the plaintiff has demonstrated well that the defendant has illegally entered his parcel of land No. **SIAYA/MAHAYA/247** and has not only constructed a home but also cultivated various crops like maize and cassava. He is also excavating murrum for sale.

This seems to be in flagrant violation of the plaintiffs proprietary rights and this is why the plaintiff has

come to court for redress.

Without much ado, the court finds the plaintiffs case well proved on balance and the plaintiff is granted prayers (a) (b) and (c) as prayed for in the plaint.

A.K. KANIARU – JUDGE

31/7/2013

31/7/13

A.K. Kaniaru – Judge

Roseline O. - Court clerk

No party present

Interpretation – English/Kiswahili

Onyango P.D. For Kowino for Plaintiff

COURT: Judgment read and delivered in open COURT.

Right of Appeal – 30 days.

A.K. KANIARU – JUDGE

31/7/2013