



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAKURU**

**E.L.C NO 20 Of 2013**

GILBERT KABAGE KARIANJAH I .....1<sup>ST</sup> PLAINTIFF

DANIEL MWAI MURIITHI.....2<sup>ND</sup> PLAINTIFF

VERSUS

JAMES MWANGI MURANGU.....DEFENDANT

**JUDGEMENT**

The plaintiffs Gilbert Kabage Karianjahi and Daniel Mwai Mureithi filed a plaint against the Defendant James Mwangi Murangu on 30<sup>th</sup> August, 2012 seeking among other orders, Eviction of the Defendant, his agents and/or servants from commercial plot No. 71 Subukia trading Centre.

By an affidavit of service sworn by Ronald Njuguna dated 8<sup>th</sup> October, 2012 the Defendant was served with summons, Plaint, verifying affidavit, list of documents and a list of witness statements but did not enter appearance nor file a defence. The matter was listed for formal proof for 9<sup>th</sup> July, 2013.

When the matter came up for hearing, the plaintiff gave oral evidence and produced the following documents:

1. An original allotment letter in his name and that of the second plaintiff.
2. Payment receipts to the Nakuru County Council for ground rent, demolition fees and land acquisition dated 12<sup>th</sup> February 2008, 24<sup>th</sup> September 2010, 9<sup>th</sup> March 2011, 28<sup>th</sup> June 2011 and 19<sup>th</sup> March 2012.

Gilbert Kabage Karianjahi the 1<sup>st</sup> plaintiff (PW1) testified that he and the 2<sup>nd</sup> plaintiff are the registered joint owners of commercial plot No.71 at Subukia trading centre having been allocated the same vide allotment letter dated 1<sup>st</sup> December 2011: That they have paid the requisite fees as required by the county Council: That the Defendant has trespassed onto the suit land and occupied one of the rooms : That despite a Demand letter and notice of intention to sue being served upon him, the Defendant has failed and /or refused to vacate the suit land.

It is not in doubt from the documents submitted that the plaintiffs were allocated commercial plot No. 71 at Subukia Trading Centre and they fulfilled the conditions set out on the face of the allotment letter. This is evidenced by the payment of the requisite fees to the County Council. As there is no evidence to the contrary I will enter judgment for plaintiffs against the Defendant as prayed in the

plaint.

I make the following orders: -

1. The Defendant to vacate the suit land within 30 days failure of which the Defendant be evicted.
2. There will be no order on costs as the defendant did not enter appearance and this matter was heard in absence of the Defendant.

**Dated, signed and delivered in open court this 26<sup>th</sup> day of July 2013.**

**L N WAITHAKA**

**JUDGE**

**PRESENT**

Ms Ayuma holding brief for Mr Ngure for Plaintiff

N/A for Defendants

Stephen Mwangi : Court Clerk