

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA
CIVIL CASE 16 OF 2010

ROBAI NAZIAKA BWONYA PLAINTIFF

V E R S U S

HARRUN MASINDE DEFENDANT

JUDGMENT

In the Originating Summons dated 2nd February 2010, **ROBAI NAZIAKA BWONYA**, the Plaintiff/Applicant, claimed to have been in occupation of and/or possession of the whole of parcel of land known as **KAKAMEGA/LUBAO/95** for a period of 12 years or more, openly, peacefully, continually and without force.

I have read the affidavit in support of the Summons sworn on the 2nd February 2010 and I have also considered the evidence tendered at the hearing.

The Defendant/Respondent did not enter appearance though duly served. The case proceeded *ex parte*. The evidence from the applicant, PW1 **ROBAI NAZIAKA BWONYA** is that she was born on the land in question in 1975. That she continued living on the said land with her parents and when her father and mother passed away in the year 2006 and the year 2008 respectively, they were buried on the said land. The applicant who was the only surviving offspring of her parents continued living on the said land and cultivated the land openly without any disturbance from anybody. That the title Deed of the land is in the name of the Respondent, **HARRUN MASINDE** who lives in Sango Scheme and has never set foot on the land in question since the late 1970's.

PW2, CHARLES SHIMOSA MYEMBELE who is a neighbour to the applicant corroborated the applicant's evidence and added that he knew that the applicant's father had bought the land in question in the 1970's from the Defendant.

Upon considering the evidence on record, I have no reasons to doubt the evidence adduced before this court by the applicant's side. The applicant has also shown that she has planted food crops and sugarcane on the land in question and also built a house thereon.

Consequently, I allow the application. The applicant shall be the registered proprietor of the whole parcel of land known as **KAKAMEGA/LUBAO/95**. No order as to costs since the suit is undefended.

Orders accordingly.

Delivered, dated and signed at Kakamega this 24th day of May, 2012

B. THURANIRA JADEN

JUDGE