



**Gitau v Muzungu & another (Environment & Land Case
63 of 2020) [2022] KEELC 3098 (KLR) (28 June 2022) (Judgment)**

Neutral citation: [2022] KEELC 3098 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 63 OF 2020**

MN GICHERU, J

JUNE 28, 2022

BETWEEN

ANTHONY KARIUKI GITAU PLAINTIFF

AND

SARAH MAUODU MUZUNGU 1ST DEFENDANT

JUSTUS MUTISO 2ND DEFENDANT

JUDGMENT

1. Anthony Kariuki Gitau, the Plaintiff seeks the following reliefs against the two Defendants Sarah Mauodu Muzungu and Justus Mutiso;
 - a. An order of eviction from LR LTK/Kimana Tikondo/6238, the suit land.
 - b. Costs of the suit.
2. The Plaintiff's case is that he is registered owner of the suit land which he purchased from Solonka Keriempere in the year 2017. On visiting the land, he found that it was occupied by the Defendants. He complained to the area chief and the County Commissioner but the Defendants refused to vacate the land even after they were ordered by the National Government Administration Officers to do so. When everything else failed, the Plaintiff filed this suit.
3. In support of his case, the Plaintiff filed the following documents;
 - i. Copy of title deed for the suit land dated October 17, 2017.
 - ii. Copy of mutation form that created the suit land from LR LTK/Kimana-Tikondo/302.
 - iii. Copy of certificate of official search dated 1/9/2020 showing the Plaintiff as the registered proprietor thereof.



- iv. Demand letters dated 7/9/2020 and December 13, 2018.
4. The Defendants, though served with summons to enter appearance, plaint and accompanying documents did not enter appearance or file any defence. The suit proceeded as undefended.
5. At the trial on 15/3/2022 the Plaintiff appeared in Court, took oath and testified by adopting his witness statement dated 21/9/2020 and documents.
6. I have carefully considered all the evidence adduced by the Plaintiff and I find that the following issues arise;
 - i. Who is the registered owner of the suit land?
 - ii. Do the Defendants enjoy any rights over the suit land?
 - iii. Can the Plaintiff be inhibited in enjoyment of his rights envisaged under Sections 24 and 25 of the *Land Registration Act*?
 - iv. Should the Defendants be evicted from the suit land?

On the first issue, I find that the Plaintiff is the registered proprietor of the suit. This is proved by the copy of title deed produced in these proceedings as an exhibit. The title deed on its face certifies that the Plaintiff is registered as the absolute proprietor of the suit land.

On the second issue, I find that the Defendants do not enjoy any rights over the Plaintiff's land. They are not joint owners. If they enjoyed any right, they should have come to Court to prove it.

On the third issue, I find that the Plaintiff cannot be inhibited in the enjoyment of his rights envisaged under /Sections 24 and 25 of the *Land Registration Act*.

On the fourth and final issue, I find that the Defendants should be evicted from the suit land upon the Plaintiff complying with Section 152E of the *Land Act*, Act No. 6 of 2012.

I therefore enter judgment for the Plaintiff as prayed for in the plaint.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 28TH DAY OF JUNE, 2022.

M.N. GICHERU

JUDGE

