



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO
CIVIL SUIT NO. 80 OF 2001 (O.S)

MATHEW CHERUIYOT.....1ST PLAINTIFF
JULIANA CHERUIYOT..... 2ND PLAINTIFF
VERSUS
ANNAH BWOKENY.....1ST DEFENDANT
RECHO SIOROR.....2ND DEFENDANT
ANNAH SIOROR.....3RD DEFENDANT

RULING

The Plaintiffs, Messrs **Mathew Cheruiyot** and **Juliana Cheruiyot**, had filed suit by way of Originating Summons on 15th October 2001 seeking declarations as to whether their deceased father, **Cheruiyot Arap Tele** had been in possession and occupation of the Land title No. **Kericho/Kaptatet/1439** adversely to the title of the registered proprietor. The suit was dismissed on 23rd October 2009. They are still in possession of the land. But they did not appeal against the judgment of the Court.

The Defendants now seek orders that the Plaintiffs show cause why they should not give vacant possession of the land to the Defendants.

As the Plaintiffs did not oppose the application by filing either grounds of opposition or a replying affidavit, the Defendants' application proceeded to hearing without opposition.

Mr. N. O. Migiro, learned Counsel for the Defendants, urged the court to allow the application and grant the orders sought.

I have duly perused the application and considered the submission by Mr. Migiro. I am satisfied that the Defendants are entitled to the orders they seek. Accordingly, I allow the application and grant the orders sought.

I also order that the Plaintiffs shall appear in this Court on 11/4/2011 to show cause why they should not give vacant possession of the suit land to the Defendants.

The costs of this application shall be borne by the Plaintiffs.

DATED at KERICHO this 16th March Day of **March, 2011**

G B M KARIUKI, SC
RESIDENT JUDGE

COUNSEL APPEARING

Mr. N.M. Migiro, Advocate, for the Applicants

Mr. Motanya, Advocate, for Mr. W. R. Kiprono, Advocate, for Respondents

Mr. Bett, Court clerk