



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT KISUMU**

**CIVIL CASE NO. 10 OF 2010**

**ZEBEDI ODONGO SAMO.....PLAINTIFF**

**VERSUS**

**DOMINIC OWUOR OMBATI.....DEFENDANT**

**J U D G M E N T**

The plaintiff herein Zebedi Odongo Samo brought this against Dominic Owuor Ombayi the defendant claiming *inter alia* orders of eviction from land parcel No. **L.R. Border 11/20** Ladhri Awasi. Summonses were served upon the defendant on 8-6-2010 by one Francis Odiwuor Ongesa, a process server. The defendant never filed any appearance or defence.

In his evidence the plaintiff stated that he purchased the land from one Ombayo Omenge sometimes in 1975. The defendant sometimes in 1990 came and built structures on the suit land forcefully and that was the genesis of his problems with the defendant.

The plaintiff further produced documentary evidence which included exhibit No. 1 being the proceedings at Nyando Magistrate case No. **4/2005** which adopted the orders of land dispute tribunal.

The tribunal case was again between the plaintiff and the defendant. The tribunal ruled in favour of the plaintiff. The defendant appealed vide Kisumu High Court Misc. Application No. **93 of/2005** as per exhibit No. 3 but the same was rejected.

The plaintiff has further demonstrated ownership of the land vide title No. Kisumu/Border/20 issued on 13-3-2007 in his favour. The question for determination is whether the plaintiff has established a prima facie case against the defendant. The answer is in the affirmative.

It is infact the defendant who has all along stake claim on the plaintiff parcel of land. He has filed multiplicity of claim as shown above but he never succeeded. There is no dispute or doubt that the plaintiff is the registered owner of the suit land.

His title deed is undefeasible. Am also satisfied that the defendant received the relevant summonses.

The upshot of this therefore is that the plaintiff's suit succeeds and I order the defendant be evicted from land parcel No. **Kisumu/Border/20**. The plaintiff shall have the costs of this suit.

Orders accordingly.

**Dated, signed and delivered at Kisumu this 26<sup>TH</sup> day of October, 2011.**

**H.K. CHEMITEI  
JUDGE**

**HKC/va**