



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT KISUMU

CIVIL CASE NO. 137 OF 2010

MOHAMMED TARIQ GANI.....PLAINTIFF

VERSUS

DICKSON ZAKI OGANNA.....DEFENDANT

J U D G M E N T

The plaintiff's originating summons dated 19-8-2010 raises six (6) fundamental points for determination. The fundamental being that the boundary issue between the plaintiff and the defendant in respect to the portions of land namely Kisumu/Nyalenda 'B'/1011 and Kisumu/Nyalenda 'B'655 be determined and fixed.

The other fundamental prayer is that the defendant has been very unco-operative in terms of ensuring that this boundary dispute is sorted out. The plaintiff took out the originating summons together with the summons to enter appearance. From the pleadings herein the plaintiff was unable to take and serve the defendant necessitating him to make an application dated 13-10-2010 for purposes of serving him via substituted service. The same was allowed and as can be shown advertisement was done on 10-1-2011 vide the Daily Nation newspaper.

This didn't elicitate any response by the defendant in terms of filing a defence or an appearance.

The defendant has further exhibited correspondence from the District Land Registry wherein the defendant had been notified of the boundary dispute.

Having gone through pleadings and all the supporting evidence, I am satisfied that the plaintiff has established a sufficient claim against the defendant in line with his originating summons.

For these reasons I order that:-

- (1) The District Land Registry in conjunction with the relevant survey department do undertake with a view of rectifying any boundary anomaly between land parcels No. Kisumu/Nyalenda 'B'/655 and Kisumu/Nyalenda 'B'/1011.**
- (2) The relevant and or nearest police station do provide adequate security to the parties and do ensure compliance.**
- (3) Costs to the defendant.**

Dated, signed and delivered at Kisumu this 19th day of October, 2011.

**H.K. CHEMITEI
JUDGE**

HKC/va