



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

**AT ELDORET**

**CIVIL SUIT NO. 9 OF 2011**

**KIMUTAI**

**SITIENEI:.....:PLAINTIFF**

**VERSUS**

**MUSA KIPROP KORIR:.....:1<sup>ST</sup>**  
**DEFENDANT**

**PIUS KOSGEI CHELELGO:.....:2<sup>ND</sup>**  
**DEFENDANT**

**STEPHEN KIPKOECH CHELELGO:.....:3<sup>RD</sup>**  
**DEFENDANT**

**JUDGMENT**

In a plaint filed on 14<sup>th</sup> January, 2011, **Kimutai Sitienei** the plaintiff sought orders of this court for the eviction of the defendants, mesne profits and a permanent injunction restraining the defendants, their servants, agents and family members from carrying out any farming activities, further trespassing or in any other way dealing with the plaintiff’s parcel of land known as Uasin Gishu/Kipkabus Settlement Scheme/336 comprising 4 hectares. The defendants are **Musa Kiprop Korir, Pius Kosgei Chelelgo** and **Stephen Kipkoech Chelelgo**.

The defendants filed no defence or other form of response to the plaintiff’s plaint.

On 19<sup>th</sup> October, 2011 the plaintiff took the witness stand and testified that the said piece of land belonged to him. He produced a copy of the Title Deed for the piece of land which title was in his name. He further produced a search certificate of the suit title which also confirmed that the said piece of land was registered in his name on 30<sup>th</sup> August, 1990.

The plaintiff further testified, that nine (9) years ago, the defendants invaded his piece of land and still trespassed thereon at the time of trial. As the registered proprietor he sought the eviction of the defendants and further that they be restrained from further trespassing on his said piece of land. He produced a letter addressed to the defendants in which he demanded they vacate his land but they had not complied.

I accept the plaintiff’s evidence. On the basis thereof, I find that he is the registered proprietor of the suit land and that the defendants are trespassers upon the same. The claim for mesne profits was not demonstrated.

In the result, I enter judgment for the plaintiff as follows:-

**1) The defendants are hereby ordered to give the plaintiff vacant possession of the suit property forthwith and in default an order of eviction to issue.**

**2) The defendants, their agents, servants and family members are hereby permanently restrained from carrying out any farming activities, further trespassing or in any other way dealing with the plaintiff's title.**

**3) The defendants are condemned to pay the plaintiff's costs of the suit.**

Orders accordingly.

**DATED AND DELIVERED AT ELDORET  
THIS 30<sup>TH</sup> DAY OF NOVEMBER, 2011**

**F. AZANGALALA**

**JUDGE**

**Read in the presence of:**

**Mr. Nyamweya for the Respondent**

**F. AZANGALALA**

**JUDGE**

**30<sup>TH</sup> NOVEMBER, 2011**