



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Civil Suit 204 of 2007

JOHN WAKIRU MUIRA.....PLAINTIFF
VERSUS
KIPRUTO ARAP BIRIRI1ST DEFENDANT
RICHARD RUTO.....2ND DEFENDANT
PATRICK RUTO.....3RD DEFENDANT
NICKSON RUTO.....4TH DEFENDANT

JUDGMENT

The plaintiff avers in his plaint that on 7th March 2007 he bought all that piece of land known as Title No. Kamara/Mau Summit Block 3/76 (Boror 'C') (the suit piece of land) in a public auction conducted by M/S Saddabri Agencies (Auctioneers) on the instructions of Industrial & Commercial Development Corporation (ICDC) for Kshs.1,500,000/-. He paid a deposit of Kshs.375,000/- at the fall of the hammer and the balance of Kshs.1,125,000/- by 30th March 2007. Subsequently ICDC transferred the piece of land to him on 24th May 2007. In spite of demand the defendants have refused to give possession of the suit piece of land to him and in-act threatened to do harm to him if he goes to the land.

Though served the defendants have not entered appearance or filed any defence. After obtaining interlocutory judgment the plaintiff fixed this case for formal proof.

In his testimony, after narrating how he bought the suit piece of land and got it transferred to himself, the plaintiff said that when he went to the land on 28th August 2007 in the company of the area Assistant Chief and his APs, the third defendant abused him and threatened to cut him and his entourage with a panga. On 31st August 2007 the first defendant was summoned to the Chief's office at Mau Summit and asked to vacate the land but he has together with the other defendants refused to do so. The plaintiff therefore prays for a declaration that he is the owner of the suit piece of land and the defendants' eviction from it.

Having considered the uncontroverted testimony of the plaintiff I am satisfied that he is now the owner of the suit piece of land and I accordingly grant him the declaration sought. Despite demand the defendants have refused to vacate and from what the plaintiff says they are not likely to vacate unless they are evicted. Consequently I grant the plaintiff the eviction order sought and order that the defendant should be evicted from the suit piece land forthwith. The plaintiff shall have the costs of this suit.

DATED and delivered this 18th day of February, 2010.

D. K. MARAGA
JUDGE.