



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

Civil Case 112 of 2009

**MARY WANJIRU MAINA.....PLAINTIFF
VERSUS
SARAH KARANDA.....1ST DEFENDANT
JOHN ARAP MAINA.....2ND DEFENDANT
MATHEW MITEI.....3RD DEFENDANT**

JUDGMENT

The Plaintiff, Mary Wanjiru Maina has instituted this suit against Sarah Karanda, John Arap Maina and Mathew Mitei (the defendants) for a declaration that she is the lawful owner of parcel of land No.NAKURU/NESSUIT SETTLEMENT SCHEME/1817 while the defendants are trespassers on that land. She also seeks their eviction and a permanent restraining order against them.

The defendants were duly served but failed to participate in the matter, as a result of which the hearing proceeded *ex parte* by way of formal proof. In her evidence, the plaintiff confirmed that the suit land is hers; that the 1st defendant, Sarah Karanda invaded the suit land in 1998; that in 2007, the 1st defendant purported to sub-divide the suit land into three portions and to sell two portions to the 2nd and 3rd defendants.

The plaintiff was, however, not able to identify, by name the two persons to whom the 1st defendant has sold the two portions.

From the title deed, certificate of official search and the plaintiff's own testimony, I am satisfied on a balance of probability that the plaintiff is the registered proprietor of the suit land and consequently, I so declare. I further order that any person on the suit land, including the 1st defendant, without the plaintiff's authority shall vacate it forthwith. In addition, the 1st defendant and any other person on the suit land without the plaintiff's authority will be restrained by a perpetual order of injunction in terms of prayer (c) of the plaint.

Costs are awarded to the plaintiff against the 1st defendant as the plaintiff does not know the 2nd and 3rd defendants.

Dated, Signed and Delivered at Nakuru this 22nd day of July, 2010.

W. OUKO

JUDGE