



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KITALE
CIVIL SUIT NO. 97 OF 2007

ZAKARIA MONYOPLAINTIFF
VERSUS
WYCLIFFE LUKHAYO.....DEFENDANT

JUDGMENT

1. The plaintiff's suit was filed on 18th June, 2007 as per the plaint, the plaintiff is seeking for an eviction order against the defendant, his servants agents or anybody working under his authority on LR No. Kakamega/Lumakanda/4553 measuring approximately 0.37Ha. According to the affidavit of service the defendant was served with the summons to enter appearance on 28th June, 2008 no appearance or defence was filed and interlocutory judgment was entered against the defendant on 17th November, 2008. The matter came up for formal proof and the plaintiff gave evidence in support of his claim.

2. The plaintiff testified that sometimes in the year 2003, the defendant trespassed on his parcel of land known as LR No. Kakamega/Rumakenda/4353 without any color of right and has continued to do so despite the plaintiff's demand and request to the defendant to vacate his piece of land. The plaintiff produced a copy of the title in respect of the suit premises which was issued on 31st January, 2006.

3. The plaintiff's evidence was not challenged; he produced the copy of the title to support his claim that he is the registered proprietor of the suit premises. This evidence is not controverted as the defendant who was served with summonses failed to defend the claim. Accordingly I find the plaintiff has been able to prove his case on a balance of probability and I hereby grant the orders sought in the plaint.

4. An order of eviction to issue against the defendant, his servants or anybody working with his authority on parcel no. **Kakamega/Lumakanda/4353**. The plaintiff shall also have the cost of this suit.

JUDGMENT READ AND SIGNED ON 29TH DAY OF OCTOBER, 2010

MARTHA KOOME
JUDGE