

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO

Civil Suit 91 of 2005

ANDREW KETER KIRUI PLAINTIFF

VERSUS

ALI HASSAN KETER DEFENDANT

RULING

I: Procedure

1. This suit was filed by the Plaintiff herein on 30th August, 2005. It concerns land parcel Kericho/Kipchimchim/2366. The plaintiff seeks orders of eviction of the defendant who is also his step brother from the land.
2. An overview of this case is that sometime in the year 2002 a law of Succession Cause was filed being No. 21/2002 concerning the estate of one Kipketer Kirui (now deceased). He had five wives and therefore five houses.
3. The parties appeared before the Land Disputes Tribunal claim No. 336/2004 Ainamoi in which the tribunal rightly held that they had “no powers” to interfere with title already issued to the plaintiff. That this matter was for the High Court to determine.
4. In the year 2005, the plaintiff who is the registered proprietor of the land in dispute filed this present suit seeking to evict the defendant from the suit land. The trial commenced before Kimaru J (7.2.07). He remained with only one witness to be heard and left this station. Under **order 17 r 10** Civil Procedure Rules this court took up the hearing from where it was left off. It transpired that there existed a cause in the law of succession that effected this case. This court gave orders that the said succession cause be made available. This was done in May, 2009.
5. This court having perused the said Succession cause and noted orders of this court that the matter be and is coming up for hearing exparte, on 8th June, 2009 at 9.00a.m to hear the pending application of 2nd December, 2005 on the issue of revocation of grant.
6. Consequently the suit before this court is stayed pending the finalization of the probate matter. Once completed judgment on this suit be finalized.
7. The cost be in the cause.

DATED this 25th day of May, 2009 at **KERICHO**

M.A. ANG’AWA

JUDGE

Advocates

A.N. Matwere advocate instructed by M/S Matwere & Co. advocates for the Plaintiff – present

J.M. Motanya advocate instructed by M/S Motanya & Co. advocates for the defendant – present