



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

**Civil Suit 77 of 2006**

**KIPTANUI RONO..... PLAINTIFF**

**=VERSUS=**

**JULIUS KIPROTICH KISORIO**

**AUGUSTINE KIPLIMO KISORIO AND**

**DANIEL KIPKEMBOI TANUI ..... DEFENDANT**

**J U D G M E N T**

The Plaintiff filed suit on 6<sup>th</sup> July 2006 as against the three Defendants in the Suit claiming the subdivision of the parcel of land known as NANDI/KAPLAMAI/82 between himself and the three Defendants and one Joseph Kimaru Mutai all of whom are registered owners of the said parcel of land. The subdivision and/or partition of the land is so that each party gets his own title as to his own share of the land. The Plaintiff prays in the plaint that the Defendants be ordered to execute application for consent to partition the parcel of land above described and also that the Defendants do execute application for partition and mutation forms and all documents of conveyance to partition the said parcel of land and in default the Court do executed all the relevant documents in place of the Defendants.

The Plaintiff's further case is that one of the co-registered owners of the suit land one Joseph Kimaru Mutai has agreed to execute all the necessary documents for the partitioning of the suit land but the three Defendants have, despite demand, refused to do the same. Consequently the Plaintiff prays as above and for costs of the suit.

The Defendants did not enter appearance and they did not file any defence although they were served with summons to enter appearance.

At the hearing the Plaintiff gave evidence that the Defendants have refused to sign the necessary documents to enable the partitioning of the suit land and they have also refused to participate in the Suit. He produced the Title Deed over Nandi/Kaplamai/82 as Exhibit number one and produced the Certified true copy of the Register popularly known as the Green Card as exhibit number 2. The Title Deed shows the Registered Proprietors as Julius Kiprotich Kisorio, Augustine Kiplimo Kisorio, Daniel Kipkemboi Tanui, Kiptanui Rono and Joseph Kimaru Mutai.

Exhibit marked as number 2, the certified true copy of the Register shows each party's share as follows:-

1. Julius Kiprotich Kisorio - 0.9 acres

2. Augustine Kiplimo Kisorio - 1.1 acres
3. Daniel Kipkemboi Tanui - 0.2 acres
4. Kiptanui Rono - 3.5 acres
5. Joseph Kimaru Mutai - 0.6 acres

As already stated the Defendants did not file a defence. The Plaintiff pleaded that Joseph Kimaru Mutai has agreed to sign the necessary documents to enable the partitioning of the Suit Land.

I consider the pleadings and the evidence of the Plaintiff and find that the Plaintiff has proved his case on a balance of probability as by law required. I consequently enter judgment for the Plaintiff and Order that the Defendants shall execute all the necessary documents so that the parcel of land known as NANDI/KAPLAMAI/82 shall be divided to enable each registered owner to get title in respect of his respective share of the land. I Order that each Registered Owner shall bear the costs of the subdivision of his respective share. In default of the Defendants signing the necessary documents, the Deputy Registrar of this Court shall execute the same to enable the said Subdivision. The Defendants will pay the costs of this Suit.

**DATED AND DELIVERED AT ELDORET THIS 13<sup>TH</sup> DAY OF MAY 2009.**

**P.M. MWILU,**

**JUDGE.**

**In the presence of :**

Court Clerk -

Advocates for the Plaintiff –