



JANENDRA RAICHAND SHAHPLAINTIFF

VERSUS

NASSOR MOHAMMED NAHDYDEFENDANT

J U D G M E N T

The plaintiff instituted this suit against the Defendant on 10th July 2009 seeking the following orders:-

- (i) *A mandatory injunction to order the Defendant to forthwith pull down and remove from the suit property the constructions and remove all their property of whatever nature as well as workmen, servants or agents from the plaintiff's said property.*
- (ii) *An injunction to restrain the Defendant by themselves their servants or agents or otherwise from preventing the plaintiff from accessing on its land and Defendants should desist from trespassing onto the plaintiff's said property.*
- (iii) *An injunction to restrain the Defendant by themselves their servant or agents or otherwise howsoever from remaining on or continuing in occupancy of the said land.*
- (iv) *Demolition of all illegal structures and buildings erected on the plaintiffs' premises.*
- (v) *Costs of and incidental to these proceedings.*
- (vi) *Such other or further relief that this Honourable court may deem fit to grant.*

The plaintiff contends that he is the registered owner of all

that piece of land known as Subdivision Number 890 (Org.284/99) Section III Mainland North under Certificate Number CR.39208 and is entitled to possession thereof.

That the Defendants have wrongly entered into the said land. He claims that the Defendants proceeded to construct various illegal buildings and structures on the plaintiff's said land. He discovered this in May 2009 when he visited the said premises.

That the Defendants to have prevented him from peaceful enjoyment of this property and they have refused to vacate land and have degraded the premises in waste. The plaintiff asserts that the aforesaid amounts to trespass.

The defendant was duly served with summons and plaint on 18th July 2009 but did not enter appearance or file defence. Interlocutory judgment was entered on 1st September 2009.

The plaintiff testified on oath. He produced the certificate of title to the property in his name. He also

produced a Memorandum of Sale for the purchase of its property on 5th June 2002 and also the transfer of the same date.

I am satisfied upon hearing the testimony and considering the pleadings that the plaintiff is the registered owner of the suit property and he is entitled to vacant possession and to enjoy his property. The Defendants has not challenged the plaintiff's claim and he has no claim or colour of any right to the suit premises. The plaintiff is entitled under the constitution of this property. The Defendant has forcefully entered the land and refuses to vacate. For the Rule of Law to prevail such conduct must be stopped and/or prevented.

I have to hesitate in granting the orders sought herein.

I do here enter judgment for the plaintiff in terms of prayers (i), (ii), (iii) and (iv) of the plaint. For avoidance of doubt the title reference of the law shall be inserted and included in the said prayers i.e. all that piece of land known as Subdivision Number 840 (org.No. 284/99) Section III Mainland North under Certificate Number CR.39208.

The Defendant shall pay the costs of the suit.

Orders accordingly.

Delivered and signed at Mombasa this 30th day of October 2009.

M. K. IBRAHIM

J U D G E