



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

Civil Appeal 15 of 2001

MUNENE MUNYI.....APPELLANT

VERSUS

KIURA MARAGA.....RESPONDENT

JUDGMENT

The property in dispute Plot. No. Embu/Mwavuria/1043 is registered in the name of Kiura Maraga, the Respondent herein. He filed suit for the Appellant to be evicted from the said land. The trial Magistrate decided in favour of the Respondent (plaintiff). I have perused the Judgment and the proceedings;

1. The answer to ground one of appeal is that the Trial Magistrate adhered to the principles of natural justice. He allowed the Appellant to give evidence and to call witnesses. This is testified by the record. I therefore find no merit on this ground and the same is dismissed.
2. The answer to ground 2 of Appeal is that the appellant had prayed for no relief and the evidence in favour of Respondent on title was not challenged. The members of clan came in to help the Appellant after the land had already been registered in name of Respondent. When Respondent had already acquired registered title which is guaranteed by Registered Land Act Cap.300. This ground is also without merit and is dismissed.
3. On ground 3 of appeal the issue of fraud was not pleaded nor was any evidence led to prove the allegation.
4. On ground 5 of the appeal no evidence was led to show to the court that the said land subject matter of suit was sensitive and in which manner it was so.

I therefore dismiss the appeal as a whole and order the appellant to pay costs in this appeal and in court below to the Respondent.

It is so ordered.

Dated this 10th April, 2008.

J. N. KHAMINWA

JUDGE

Further Order:- The application dated 20/9/2006 by Respondent against the Appellant has been overtaken by events and the same is dismissed.

J. N. KHAMINWA

JUDGE

10/4/2008

Khaminwa – Judge

Solomon – Clerk

Appellant -present

Respondent – present

Read in open court

J. N. KHAMINWA

JUDGE