

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAKURU

Civil Case 213 of 2006

JOSEPH MACHARIA NDERITU PLAINTIFF

VERSUS

JOYCE NYAWIRA MATHENGE DEFENDANT

JUDGMENT

The plaintiff, *Joseph Macharia Nderitu* instituted this suit against *Joyce Nyawira Mathenge*, the defendant herein. He sought for an order of eviction against the defendant and the removal of the structures from Land Parcel No. Miti Mingi Miti Mingi /Block 9/23 (Ndiuni) which structures the plaintiff contended have been constructed by the defendant without his authority.

The defendant did not enter appearance and interlocutory judgment was thus entered against the defendant. This matter proceeded for hearing by way of formal proof and the plaintiff gave an account of how he is the registered proprietor of the property known as **Miti Mingi Miti Mingi /Block 9/23** (Ndiuni). He produced the certificate of title and also a search certificate to show that he is the registered proprietor.

The plaintiff by himself had placed a restriction on the title prohibiting any dealing without his consent. He realized that somebody had trespassed on his land and put up temporary structures on his land the restriction notwithstanding. It is for that reason he filed this case seeking for the eviction and removal for those structures. The defendant was served with the summons to enter appearance but she failed to file a defence, nor has she, removed the illegal structures.

It is for the above reasons that he sought for an intervention of the court. The certificate of title and the official search clearly shows that the plaintiff is the registered owner of the suit land.

I find the plaintiff has been able to prove ownership of the suit premises and he is therefore entitled to the exclusive and an uninterrupted peaceful possession of the same. I allow the plaintiff's claim and the defendant is hereby ordered to remove the structures or buildings on the plaintiff's parcel of land known as **Miti Mingi Miti Mingi /Block 9/23** (Ndiuni) within thirty (30) days from the date of this judgment. The plaintiff shall also have the cost of this suit.

It is so ordered.

Judgment read and delivered on 9th day of March 2007.

MARTHA KOOME

JUDGE