



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

**Civil Suit 102 of 2003**

**SIMION KIPKOSGEI LIMO ..... PLAINTIFF**

**VERSUS**

**JOSEPH GATERI MWANGI ..... DEFENDANT**

**JUDGEMENT**

The Plaintiff filed this suit on 5<sup>th</sup> December, 2003 in which he sought the following orders against the Defendant;-

- (i) A permanent injunction to prevent the Defendant, his agents and or servants from trespassing into, occupying, interfering with the quiet enjoyment of the Plaintiff's proprietary interests and/or interfering with the tenants on the suit property and or in anyway dealing with the suit property.
- (ii) An eviction order.
- (iii) Costs of the suit.

The Plaintiff claimed that he was the registered owner of the suit property, land parcel number Eldoret Municipality/Block 21/Kingongo/1210. He alleged that the Defendant had entered into and trespassed upon the Plaintiff's land and interfered with his tenants.

In his Defence the Defendant filed a defence which was a general denial. However, he claimed that he was the legal owner of a portion of the suit property measuring 50 x 100 feet and therefore he could not be a trespasser on his own land.

The Defendant and his Counsel did not attend Court at the trial. The Defendant's Counsel had been served with a hearing notice and he sent another Counsel to apply for adjournment on his behalf. The application was rejected and the trial proceeded.

The Plaintiff testified and he produced in Court title deed to the suit property. This Court hereby finds that the plaintiff is the registered owner of the suit property with effect from 5<sup>th</sup> September, 2003. The Defendant's defence is weak and a general denial. It is difficult to comprehend how the Defendant could own a portion of the suit property yet the entire land was registered by the Plaintiff. The Defendant did not attend Court for the trial despite knowledge of the hearing date.

On a balance of probability, I do hereby find that the Defendant is a trespasser on the suit property and that he has also disobeyed Orders of this Court. I do hereby enter judgement for the Plaintiff and grant the orders of permanent injunction and eviction order as prayed in prayers (i) and (ii). The Plaintiff shall be paid costs of the suit by the Defendant.

DATED AND DELIVERED AT ELDORET ON THIS 5<sup>TH</sup> DAY OF JUNE, 2007.

M. K. IBRAHIM

JUDGE