



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI (NAIROBI LAW COURTS)**

**Civil Case 1150 of 2000**

1. Land and Environmental Law Division
2. Subject of main suit land  
LR Kiganjo/Handege/2949
  - a. Plaintiff registered proprietor situated in Gatundu Division Thika
  - b. Defendant occupy land without consent
3. Defendant 1 and 2 – Interlocutory Judgments entered on 31 August 2000
4. Formal proof
  - a) Plaintiffs claim to be proprietor of land and dully registered
    - b) Hearing conducted by Mbitio J.
    - c) Proceeding continue under order 17 r 10 Civil Procedure Rules.
5. Case law - Nil
6. Advocate:-  
M. David for Kamere & Co. Advocates for the plaintiff- present  
Kahiu Mbugua & Associates advocates for the defendant - absent

**JOSEPH KIMANI NYAGIA ..... 1<sup>ST</sup> PLAINTIFF**

**JAMES KARIUKI KIMANI ..... 2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**KAMAU CHEGE ..... 1<sup>ST</sup> DEFENDANT**

**JUDGMENT**

1: Background

1. The plaintiff, Joseph Kimani Nyagia and James Kariuki Kimani sue Kamau Chege and Patrick Nganga Chege in trespass.

2. The plaintiffs claimed that they purchased the suit property. The defendants herein refused to vacate the land. They continue to reside on the land without the consent of the plaintiff.

3. The said plaintiff herein prayed that orders of injunction do issue against the defendants restraining them from occupying, wasting the land and trespassing thereon. They prayed that the plaintiffs be evicted and or vacated. Damaging for trespass and mense profits.

4. The defendant on being served failed to attend court. Interlocutory Judgment was entered against them.

II: Should orders be granted.

5. After formal proof of this matter and fair proceeding by Mbitio J I am satisfied that the orders sought be granted for an injunction, orders to vacate the premises and to remove the said structures forth with.

6. That there will be no award as to damages and mense profits as both prayers cannot be sought for when the other is issued.

7. The said suit be and is hereby allowed with costs to the plaintiff on the said above terms.

Dated this 31<sup>st</sup> day of July 2007 at Nairobi.

**M.A. ANG'AWA**

**JUDGE**

M. David for Kamere & Co. Advocates for the plaintiff- present

Kahiu Mbugua & associates advocates for the defendant - absent