



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

**Civil Case 119 of 1999**

**KAPTUMO MULTI PURPOSE CO-OPERATIVE ..... PLAINTIFF**

**VERSUS**

**HASSAN KIPKEMOI NGENY AND TWO OTHERS.....DEFENDANTS**

**JUDGMENT**

At the hearing of this suit the Plaintiff and the three Defendants recorded a consent order through their respective counsel on the following terms-

“ The Disputes between the parties is a boundary dispute giving rise to cross – claim of trespass and damages.

In order to resolve this matter the boundaries of the following Properties/land must be identified and determined on the Ground Namely L.R. No. Nandi/Chepkongony/759 which is said to Be the Plaintiff’s property L.R.Nos.Nandi/Chepkongony/761,760 and 762 which are said to belong to Defendants respectively.

As a result, it is hereby ordered that the District Land Registrar and the District Surveyor Nandi South do visit The suit property, identify the beacons and boundaries and mark them appropriately. They shall then file with the Court a Report respectively as to their findings on the ground. This work shall commence immediately the order is served on the 2 officers and the Reports filed within 30 days thereafter. The Plaintiff and the Defendants shall bear the costs of the inspection and survey undertaken jointly and equally at the first instance .....

The District Land Registrar and the District Land Surveyor carried out the exercise in the presence of the Defendants and filed their report and findings on 28<sup>th</sup> February, 2007. Upon consideration the parties through their counsel requested that the Report and findings be adopted as a Judgment of the court. This was on 9<sup>th</sup> October, 2007.

Upon careful consideration of the Report filed in this court on 28<sup>th</sup> February, and on the basis of the acceptance of the Report and its findings, and the request that judgment be entered by consent, I do hereby adopt the findings in respect that the disputed portion as shown by the Surveyor’s report belongs to the plaintiff Kaptumo Multi-Purpose Co-operative Society.

In order to make the judgment wholesome and effected, I do hereby issue a DECLARATION that all

that piece of land known as NANDI/CHEPKONGONY/759 measuring 0.24 Hectares belongs to the plaintiff as reflected on the Mutation Forms done in June, 1997.

From the pleadings, it would appear that the plaintiffs are in control and possession of the disputes shaded area in the sketch/diagram dated 17th July, 2006 done by the surveyor. In the event that this is not the case I do hereby order and direct the Defendants jointly and severally to vacate the said area and hand over the possession to the plaintiff within the next fourteen (14) days. In default, an eviction order does hereby issue as against the Defendants jointly and severally and which the plaintiff be at liberty to enforce upon expiry of the 14 days.

As the parties are neighbours and have acted honourably in this proceedings leading to a mutual settlement of the matter and in order to facilitate reconciliation, I do order that there shall be no order as to costs i.e each party to bear its/his own costs.

Orders accordingly.

**DATED AT ELDORET THIS 28<sup>TH</sup> DAY OF NOVEMBER 2007**

**MOHAMMED IBRAHIM**

**JUDGE**