



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT EMBU

Civil Suit 104 of 2006

JOYCE CIANKOROI NJUKI.....PLAINTIFF

VERSUS

M'MURIANKI M'MUGWIKI.....1ST DEFENDANT

MERU SOUTH LAND ADJUDICATION OFFICER.....2ND DEFENDANT

JUDGMENT

The plaintiff filed a plaint against first Defendant an adult male residing in Mariani village. The Meru South Land Adjudication Officer is the second defendant.

The plaintiff claim a declaration that the plot No. 3354 Mariani Adjudication Section is hers and that the name of first Defendant be cancelled and in its place the plaintiff be registered as proprietor. She also claims costs of this suit.

Plaintiff obtained consent for suit to be filed and the consent is attached to the plaint. Summons to enter appearance was served on second defendant but he did not enter appearance. There is also filed affidavit of service sworn on 20/11/2004. Having failed to enter appearance within the prescribed period the plaintiff obtained interlocutory Judgment and proceeded to hearing.

In her evidence she testified that her husband Njuki Ngaine died in 1989. And that the first Defendant had not lodged a complaint (objection) against her claim to land. She exhibited proceedings of hearing of the objection. It is recorded that the first Defendant claimed 10 acres of the land. The Plaintiff states that the ten acres were not part of her claim. She is only claiming 3 acres. It is also recorded that the plaintiff's husband won the case against first defendant. The Land Adjudication Officer hearing the objection did not give any reason why he awarded the plaintiff's land to the first Defendant who was claiming 10 acres of land. It is clear the officer was biased against the plaintiff. PW2 a brother in-law of PW1 testified that the plaintiff's husband purchased the land in dispute (3 acres). He produced document Exhibit 2 which he said relates to the sale by Sabastian. At that time no one objected. PW2 pointed out that the person who objected was Mugwika Thungutha and not Murianki Mugwika (see exhibit No.5). That was the plaintiff's case.

Upon considering the evidence I find that the objection filed before the second Defendant was in respect of 10 acres of land. The plaintiff's land No. 3354 is only 3 acres. The objector did not prove his -- ownership. The objector was not the defendant but it was the first defendant who was awarded land without any reason at all.

I find that the plaintiff has proved her case. I enter Judgment against the two defendants. I grant

prayers stated in the plaint.

No order for costs as the two defendants did not defend the suit.

Dated this 27th November, 2007.

J. N. KHAMINWA

JUDGE

27/11/2007

Khaminwa – Judge

Njue – Clerk

Plaintiff

Read in open court.

J. N. KHAMINWA

JUDGE