



1. TORT

2. Finalized case

I: Subject

a) Battery

b) Defendant Francis Njuguna Kungu battered Joel Kungu Waianae

c) Liability 100%

Kasanga Mulwa J. 31.1.01

d) Quantum:

i) Special damages Ksh. 3,000/-

ii) General damages Ksh.150,000/-

(Ombinja,J. 21.2.02)

e) No appeal preferred.

3. Application 29 June 2007

a) The plaintiff has found purchaser to buy defendants only asset/land Land. LR No. Kiganjo Gachika/133, to recover the decretal sum .

b) Defendants served with application - absent

c) Advocate for defendant - absent

d) Prayers sought to vest property to new purchase.

4. Held: Application to vest land to new purchaser allowed.

5. Advocate:

K Njau of Kiania Njau & Co. Advocates for the plaintiff/applicant- present

Mutali W. of Mutali Wanyama & Co. Advocates for the defendant/respondent- present

JOEL KUNGU WAINAINAPLAINTIFF

VERSUS

FRANCIS NJUGUNA KUNGUDEFENDANT

RULING

I: Background to application to vest land to a purchaser on sale of defendants assets.

1. The defendant herein Francis Njuguna attacked Joel Kungu Wainaina and caused him bodily harm. He was sentenced to 3 years imprisonment in a criminal court for causing grievous harm to the said Francis Njuguna Kungu.

2. The said Francis Njuguna Kungu then filed a suit in the TORT of Battery. Liability was awarded to him at 100% (Kasanga Mulwa J) 31 January 2001. Quantum was awarded to him at Ksh.3,000/- for special damages and Ksh.150,000/- in General damages (Ombija J) (21 February 2002).

3. The defendant resisted execution.

4. The plaintiff managed to sell the said property being the defendant's land of LR No. Kiganjo Gachika/1331.

5. The plaintiff/applicant has filed an application under section 48, 98 of the Civil Procedure Act and order XLI rules 81,83 and 84 of the Civil Procedure Rules; that sought orders

“To perfect the sale by court broker, “life line traders” pursuant to the warrant of attachment of property sold at a public auction on 17 December 2006 to one Wilson Waithaka Gitau.

That a certificate be granted to by the court vesting the said property LR Gachika/1331 in Wilson Waithaka Gitau the new seller.

6. It is therefore noted that the defendant nor his advocate appeared to oppose this application.

7. I accordingly allow the application as prayed with costs to the said applicant. The failure to execute the transfer the deputy registrar would do so.

Dated this 15th day of November 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

K Njau of Kiania Njau & Co. Advocates for the plaintiff/applicant- present

Mutali W. of Mutali Wanyama & Co. Advocates for the defendant/respondent- present