



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

**Civil Case 11 of 2006**

**ROSEBELLA JERONO MUDAVADI.....PLAINTIFF**

**VERSUS**

**DAVID KARIUKI WAIGANJO.....1<sup>ST</sup> DEFENDANT**

**NGAI VALAI – CHAIRMAN – NAKURU**

**MUNICIPALITY LAND DISPUTE TRIBUNAL.....2<sup>ND</sup> DEFENDANT**

**JUDGEMENT**

The Plaintiff in this suit Rosebella Jerono Mudavadi filed this suit against the defendants seeking for a permanent order of injunction restraining the defendants either by themselves, servants and their agents from entering, surveying subdividing, allocating, alienating disputing or interfering with the plaintiff's quiet enjoyment with **Parcel No. MITI MINGI/MBARUK BLOCK 3/788 (BARUT)**.

The defendants were served with summons but did not file any appearance and a judgement in default was entered in favour of the plaintiff on 13<sup>th</sup> March 2006. Subsequently the matter was fixed for formal proof and the plaintiff adduced evidence in support of the claim.

According to the plaintiff, at all the material times she is and has been the registered proprietor of **Land Parcel Number MITI MINGI/MBARUK BLOCK 3/788 (BARUT)** measuring 0.96 Hec. having acquired the land on first registration through her membership at **Kalenjini Enterprises Limited** as a shareholder pursuant to her shareholdership, the plaintiff was registered as the proprietor of the suit premises in January 1992. The plaintiff produced the original title for the suit premises **MITI MINGI/MBARUK – BLOCK 3/788 (BARUT)**. The plaintiff further testified that she has been in occupation of the premises since 1992. She obtained a certificate of search dated 24<sup>th</sup> March, 2006 which clearly shows that she is the registered proprietor. She complained that the 1<sup>st</sup> defendant who is a neighbour has been interfering with her parcel of land and has been committing acts of trespass and through the assistance of the 2<sup>nd</sup> defendant, they have interfered with the plaintiff's quiet enjoyment of property by ordering her to surrender the original title for cancellation. The plaintiff denied that she sold her parcel of land to the 1<sup>st</sup> defendant.

I have carefully considered the plaintiff's case which was not at all challenged. The plaintiff has been able to prove her claim to the required standard, that she is the registered proprietor of the suit premises. She produced the original title in respect of the suit premises and the certificate of a recent search of title which shows that she is the registered proprietor of the suit land.

The title vests absolute proprietorship upon the plaintiff and accordingly any acts of trespass, or interference by the defendant with the plaintiff's parcel of land are irregular, unlawful and unwarranted. The plaintiff should therefore be granted the prayers sought and the defendants are hereby restrained either by themselves, their servants, and/or agents from entering, surveying, subdividing allocating, alienating, disposing and/or interfering with the plaintiff's quiet possession of **Parcel Number MITI**

**MINGI/MBARUK BLOCK 3/788 (Barut).** The plaintiff is also awarded the costs of this suit.

It is so ordered.

**Judgement read and signed on 14<sup>th</sup> July, 2006.**

**MARHTA KOOME**

**JUDGE**