



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

**Civil Case 241 of 2005**

**LOGHAN NJENGA WAWERU.....PLAINTIFF**

**VERSUS**

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

**LAND REGISTRAR – NAKURU.....2<sup>ND</sup> DEFENDANT**

**JUDGEMENT**

This matter proceeded for hearing by way of Formal Proof. The plaintiff **Loghan Njenga Waweru** instituted this suit by way of a plaint on 29<sup>th</sup> September, 2005 against **Joseph Kamau** and the **Land Registrar – Nakuru**. Although the defendants were duly served they failed to enter appearance and file a defence and therefore judgement was entered for the plaintiff and the matter proceeded for formal proof.

During the hearing, the plaintiff gave evidence in support of his claim in respect of land known as **MOLO SOUTH/LANGWENDA BLOCK 12/424(MARWA)**.

According to the plaintiff the above land was allotted to him by **M/s Ndeffo Company**. The said Company was the original owner and registered proprietor of the above suit premises. The plaintiff produced the Share Certificate No. 3969 which was issued to him on the 17<sup>th</sup> April, 1975 and a payment receipt.

The Share Certificate indicates that the plaintiff was allocated Plot No. 424. Subsequently the plaintiff settled on the plot but he was not issued with a Title Deed. He said he has been in uninterrupted occupation since the plot was allocated to him. However the records at Lands Office indicates that the plot was allocated to one **Joseph Kamau** as per the Search Certificate dated 12<sup>th</sup> September, 2005. The plaintiff confirmed that this person indicated as the owner of the plot has never made a claim over the land and thus in his opinion the Title was issued to the first defendant fraudulently.

Despite having been served the said defendants have never entered appearance and no defence has been filed. Thus the plaintiff urged this Court to grant the orders sought in the plaint.

I have carefully considered the evidence by the plaintiff which was not at all challenged. I am satisfied that the plaintiff has been able to prove his claim to the required standard that he was the allottee of **the plot No. 424 by M/s Ndeffo Company Ltd**. He has been in occupation without any interruption. Accordingly I enter Judgment for the plaintiff as prayed by way of

a) A declaration that the subject property **MOLO SOUTH/LANGWENDA BLOCK 12/424 (MARWA)** is the property of the plaintiff.

The Title issued to the 1<sup>st</sup> defendant be cancelled and another title to be issued to the plaintiff.

Costs of this suit to the plaintiff as against the defendants.

It is so ordered.

**Judgement read and signed on 9<sup>th</sup> day of August, 2006.**

**MARTHA KOOME**

JUDGE

**9.8.2006**

Before: M. Koome – Judge

Oumo for the plaintiff

Non appearance by defendant

**Judgement read and signed on 9<sup>th</sup> day of August, 2006.**

**MARTHA KOOME**

JUDGE

**9.8.2006**