

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MALINDI

CIVIL SUIT NO.32 OF 2001

SALIM ISLAM SADAM.....PLAINTIFF

V E R S U S

1.ASSISTANT PUBLIC TRUSTEE – LAMU.....1ST DEFENDANT

2.ATTORNEY-GENERAL.....2ND DEFENDANT

J U D G M E N T

In this case the Plaintiff entered into Lease Agreement with the Defendants regarding the Defendants' employee's occupation of his premises. The Plaintiff now seeks judgment for vacant possession and mesne profits from 1st August, 1997 together with costs of suit. The quarterly rent was agreed to be Kshs.9,000/- at admitted by Defendants on without prejudice basis. The leases which concern Malindi HCCC No.33/2001, Malindi HCCC No.32/2001 and Malindi HCCC No.34/2001 which suits were consolidated by court order on 14th November, 2003.

The Plaintiff gave his evidence and closed his case. However, when it was for Defendants to produce evidence there was no appearance for Defendants on 3 occasions. State Counsel Mr. Okello sent other people to hold his brief. On the third occasion the Plaintiff submitted that the court should close the pleadings and proceed to pass judgment.

I have perused the evidence given by the Plaintiff. I have no reason to doubt him. He stood well against cross-examination. In absence of any contradicting evidence from Defendant, I find the Plaintiff's case proved. I therefore enter judgment for Plaintiff as prayed in the Plaint for vacant possession and mesne profits as from 1st August, 1997 till vacant possession is granted. This Judgment applies to all files consolidated.

I also grant him costs of this suit.

Dated this 30th day of July, 2004.

JOYCE KHAMINWA

J U D G E

Delivered on 30/7/04

Mr. Okello: I want certified copy for purpose of appeal.

Court: Orders accordingly.

JOYCE KHAMINWA, J.

