



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

MILIMANI LAW COURTS

ELC NO. 998 OF 2016

BRAODWELL LIMITED..... PLAINTIFF

=VERSUS=

DAYLIGHT SELF-HELP GROUP..... DEFENDANT

JUDGEMENT

1. The Plaintiff filed this suit against the Defendant seeking the following reliefs:-

a) A permanent injunction restraining the Defendant from trespassing onto the Plaintiff's suit property and further evicting the Defendant from the suit land.

b) A declaration that the Plaintiff is the legal owner of the said suit of all that land parcel known as LR No. 18282.

c) Costs and interests

d) Any other relief that this Honourable Court may deem fit and just to grant.

2. The officials of the Defendant were duly served with summons to enter appearance and file defence but they neither entered appearance nor filed defence. When the matter was listed for formal proof, the officials were again served with a hearing notice but they did not attend.

3. During the hearing, the Plaintiff's director one Vincent Sakwa Maitisi testified that he was allocated the suit property by the Nairobi City Council. A lease was processed which was registered in the name of the Plaintiff company. The plaintiff then charged the suit property to Kenya Commercial Bank in Nakuru.

4. Over the years groups of individuals have invaded the suit property. The company used to remove them at great cost. The invaders finally came and registered the Defendant group which subdivided the suit property . The Defendant's members have gone ahead to construct both residential and commercial buildings on the suit property.

5. The Plaintiff's director produced a lease document. The Plaintiff also produced charge document to show that the suit property is charged to Kenya Commercial Bank Limited. I have perused the documents produced by the Plaintiff. The Plaintiff's evidence is not controverted.

6. The only issue for determination is whether the Plaintiff has proved its case on a balance of probabilities. From the documents produced, it is clear that the suit property belongs to the Plaintiff. I find that the Plaintiff has indeed proved its case on a balance of probabilities. I therefore enter Judgement in favour of the Plaintiff in terms of prayers (a) (b) and (c) of the Plaint dated 16th August 2016 and filed in Court on 17th August 2016.

DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 18TH DAY OF FEBRUARY 2021.

E.O.OBAGA

JUDGE

In the Virtual presence of:-

M/s Kimaru for Kwamboka for Plaintiff

Court Assistant: John

E.O.OBAGA

JUDGE