



REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

CIVIL CASE NO. 2339 OF 1999

1. STEPHEN KARIUKI

NGUGI

2. PETER NDUNGU MBURU

3. JANE THARAU (suing as Chairman, Secretary and Treasurer  
respectively of Mwana Mukia Farm No.

2 Welfare Association on their own behalf and on behalf of all members of  
the Association.....PLAINTIFF

-VERSUS

BOARD OF GOVERNORS MANJIRI PRIMARY  
SCHOOL.....DEFENDANT

**JUDGMENT**

In this suit, the plaintiff who are the officials of Mwana Mukia Farm No. 2 Welfare Association and are also the registered owners of a piece of land known as L.R. No. 5985/6 on which the defendant operates from seek orders evicting the defendant therefrom and prohibiting it from trespassing thereon. They also seek damages and costs from the defendant. The defendant on the other hand contends that it had the permission of the members of the plaintiffs association to operate from the aforesaid piece of land and that the plaintiffs did not have the authority of the members to bring the suit.

The plaintiffs through the first plaintiffs alleged that the defendant had not been allowed to permanently operate from the suit premises. They had only temporarily allowed it to operate a nursery school therefrom as it contained the only a borehole from which the members obtained their water supplies. As the defendant did now brought a full primary school to the plot, it was feared that the school would contaminate the water and had required it to go back to where it had been operating. The witness denied it had been operating. The witness denied that the school still had their authority to operate from their plot and sought its eviction. No evidence was led on behalf of the defendant.

On preponderance of the evidence on record, there is no doubt that the applicants are the registered owners of the plot on which the defendant is currently operating from. It does not claim it and as those who only recently allowed it to operate therefrom temporarily have now withdrawn their consent, it has to relocate from their plot. They are therefore entitled to judgment for eviction of the defendant.

On damages, the plaintiffs did not lead evidence quantifying the loss they had suffered due to the defendant's refusal to vacate the suit premises. I am therefore unable to award anything on that account.

In view of the above I enter judgment for the plaintiffs as prayed in prayers (a) and (b) of the plaint. I also award costs against the defendant. The defendant to vacate the suit premises on or before 31st July, 2002. Orders accordingly.

**Dated and signed at Nairobi this 18th day of June, 2002.**

**G.P. Mbito**

**JUDGE**