



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KITALE**

**LAND CASE NO. 72 OF 2019**

**MOSES KIMAIYO KIPSANG.....PLAINTIFF**

**VERSUS**

**GEORGE KIPROTICH KIRUI.....1<sup>ST</sup> DEFENDANT**

**JOYCE KOECH.....2<sup>ND</sup> DEFENDANT**

**DOMINIC KIPROTICH.....3<sup>RD</sup> DEFENDANT**

**JUDGMENT**

The plaintiff filed this suit vide a plaint dated **3/12/2019** and sought an injunction against the defendants jointly and severally restraining them from in any manner interfering with the suit land and an order of eviction from the suit land of the defendants and their agents, servants, employees or any other person claiming through them and demolition of all illegal structures erected thereon. He also sought a declaration that he is the lawful owner of the suit land which is described as **Lelan/Kaptalamwa/123**, costs of the suit and interest. The defendants though served never filed their appearance or defence and the suit proceeded to hearing *ex-parte*. The plaintiff alone testified in his case and adopted his written witness statement dated **3/12/2019** as his evidence-in-chief. I have considered the pleadings and the evidence and the filed submissions. From the pleadings evidence and submissions, it is clear that the defendants appear to know the full extent and the proper boundary of the plaintiff's parcel but they are not willing to observe and keep to the boundary and have trespassed on the plaintiff's land as claimed. I find that the plaintiff has established his claim against the defendants on a balance of probabilities. Consequently, I enter judgment in the plaintiff's favour against the defendants jointly and severally as prayed in **prayers nos (a), (b) and (c)** of the plaint dated **3/12/2019**.

**Dated, signed and delivered at Kitale via electronic mail on this 25<sup>th</sup> day of May, 2021.**

**MWANGI NJOROGE**

**JUDGE, ELC, KITALE.**