



**REPUBLIC OF KENYA**

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

**ELC CASE NO. 132 OF 2016**

**GEORGE MUNYUA M'KARERIA.....PLAINTIFF**

**VERSUS**

**KIRIMA M'RUKUNGA.....1<sup>ST</sup> DEFENDANT**

**MARGARET M'RUKUNGA.....2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

1. Vide a plaint filed in court on 11.8.2016, plaintiff avers that he is the registered owner of land parcel No. Ntima/Igoki/8581 through Meru H.C succession cause no. 35 of 1991. He avers that after the succession case, the land was subdivided and defendants who fell on the plaintiffs land were to move out, but they have declined to do so, prompting the plaintiff to seek eviction orders through this suit.

2. 1<sup>st</sup> defendant filed a statement of defence whereby he avers that plaintiff is the one who was to facilitate the process of relocation of defendants.

3. The second defendant did not file any memorandum of appearance or statement of defence, but the case against her was marked as withdrawn as she had apparently moved out of the land (see proceedings of 14.5.2019).

4. Plaintiff adopted as his evidence his recorded statement filed in court on 11.8.2016. He has given an account of how the suit land came to be. Through succession cause no. 35/1991 High Court Meru, the land of his father Kareria Mwirebua No. Ntima/Igoki/786 was shared between plaintiff, Nkanata Mwirabua, Rukunga Mwirebua and Mungania Mwirebua each getting  $\frac{1}{4}$  acre. Plaintiff's share of the land was subsequently registered as Ntima/Igoki/8581. Plaintiff avers that 1<sup>st</sup> defendant who is his cousin has a timber house on the suit land.

5. The 1<sup>st</sup> defendant adopted his statement of defence as his evidence. He avers that in a family meeting, it was decided that plaintiff was to help him to shift. He is aware that he was given his own portion of land from the succession case.

6. I find that it is not disputed that there was a succession cause where by the suit land ended up with the plaintiff. The 1<sup>st</sup> defendant even admits that he was to move to his own parcel. His only issue is that he was to be moved by the plaintiff. That claim has no legal basis and as such, defendant ought to leave the suit land.

7. In the circumstances, I allow the plaintiff's case in the following terms:

**(1) The 1<sup>st</sup> defendant is hereby given a grace period of 60 days to leave the suit land, failure to which, he is to be evicted from the suit land.**

**(2) 1<sup>st</sup> defendant is condemned to pay costs of the suit.**

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 10<sup>TH</sup> DAY OF JULY, 2019**

**IN THE PRESENCE OF:-**

C/A: Kananu

Plaintiff

1<sup>st</sup> defendant

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**