



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
CIVIL SUIT NO. 65 OF 2015

SAVANNAH FARMS LIMITEDPLAINTIFF

VERSUS

MUTHEU KYULE1ST DEFENDANT

RAEL NDUNGE2ND DEFENDANT

ANNA KALOKI3RD DEFENDANT

MR. NG'ANG'A4TH DEFENDANT

JUDGMENT

1. In the Complaint dated 2nd March, 2015, the Plaintiff averred that in the year, 2014, the Defendants trespassed on parcel of land number Mavoko town block 3/2322 (the suit land); that he is the registered proprietor of the land and that the Defendants' actions are causing damage and wastage to the suit land.
2. In the Complaint, the Plaintiff is seeking for a permanent injunction restraining the Defendants from remaining on the suit land and for an order of eviction.
3. Although the Defendants were served with Summons to Enter Appearance, they neither entered appearance nor filed a Defence.
4. The matter proceeded for hearing in the absence of the Defendants on 28th February, 2017.
5. The Plaintiff, PW1, informed the court that he is a Director in the Plaintiff's company and that the Plaintiff is in possession of a Title Deed in respect to parcel of land known as Mavoko Town Block 3/2322 measuring approximately 16.58Ha.
6. PW1 informed the court that the Plaintiff purchased the suit land from four individuals and that after obtaining the consent of the Land Control Board, the suit land was transferred to the Plaintiff.
7. PW1 produced in evidence the Transfer document, the application for the consent of the Board, the consent of the Land Control Board for the transfer of the suit land and the Title Deed.
8. The Transfer document that was produced by PW1 shows that the Plaintiff purchased the suit property from Mr. Mungai Ngaruiya and Elizabeth Wanjiku Ngaruiya for KShs. 2,000,000. The said Transfer was registered on 2nd July, 2008 and a Title Deed was issued to the Plaintiff on 15th December, 2009.

9. The Defendants did not call any evidence to rebut the Plaintiff's evidence that it purchased the suit land procedurally whereafter a Title Deed was issued to it.

10. In the absence of evidence to show that the Plaintiff obtained the Title Deed in respect to parcel of land number Mavoko block 3/2322 fraudulently or by mistake, I find and hold that the Plaintiff has proved its case on a balance of probabilities.

11. For those reasons, I allow the Plaintiff's Plaint as follows:-

a) A permanent injunction be and is hereby issued restraining the Defendants, their agents, employees, families, relatives, servants and or any person acting under them from trespassing, entering, remaining, cultivating, constructing and or in any manner dealing with parcel of land known as Mavoko Town Block/3/2322 situated within Machakos County.

b) An order of eviction be and is hereby issued evicting the Defendants, their agents and or servants from the parcel of land known as Mavoko Town block 3/2322.

c) This order to be executed by the court bailiff with the assistance of the OCS, Athi River Police Station.

d) The Defendants to pay the costs of the suit.

DATED, SIGNED AND DELIVERED AT MACHAKOS THIS 16TH DAY OF JUNE, 2017.

O.A.ANGOTE,

JUDGE