

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MERU

ENVIRONMENTAL & LAND NO. 85 OF 2015

JEREMIAH NKURI.....PLAINTIFF/APPLICANT

VERSUS

GRACE GATIRIA.....DEFENDANT/RESPONDENT

J U D G M E N T

In his plaint dated 16/09/2015, the Plaintiff prays for judgment against the Defendant for:-

a. A permanent injunction to stop/restrain the Defendant by herself, agents, or anyone working on her behest from alienating/interfering with the unsurveyed land parcel in Kathangachini Tharaka Nithi belonging to the Plaintiff until further orders of court.

b. Costs of this suit and any other remedy the Court deems fit.

On 01/03/2016, formal proof proceedings took place. The Plaintiff asked the Court to adopt his statement dated 16/09/2015 as his evidence. He explained that the land in dispute belonged to his father since around 1940. His father leased the land to the Defendant's husband in 1977 but when her husband died she refused to move out of the land. The Plaintiff said that when the matter was discussed by the Council of elders, he was willing to allow the Defendant to occupy 3 acres where her homestead is located. He told the Court that he is willing to give her 3 acres.

I do find that the Plaintiff has formally proved his case but the Court awards the Defendant 3 acres from the suit land as offered by the Plaintiff in his oral evidence and in the statement of facts filed by his Advocate on 16/09/2015.

I order as follows:-

1. A permanent injunction is granted to stop/restrain the Defendant by herself, agents, or any one else working at her behest from alienating/intefering with the Plaintiff's unsurveyed land in Kathangachini, Tharaka Nithi belonging to the Plaintiff EXCEPT the 3 acres where the defendant's home stands.

2. The defendant is awarded 3 acres where her homestead is located.

3. I award no costs in this suit.

It is so ordered.

Delivered in open Court at Meru this **1st day of March, 2016** in the presence of:-

CC: Daniel/Lilian

Otieno for Plaintiff

P. M. NJORGE

JUDGE