



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 165 OF 2013

BLACKSLAND INAHI AKINALA PLAINTIFF

VERSUS

MWANGI THIGA MUKUHA DEFENDANT

JUDGEMENT

INTRODUCTION

1. The Plaintiff brought a suit against the defendant seeking eviction orders against the defendant from LR. NO. Sinyerere/Sitatunga Block 1/Mukuyu/512 as well as a permanent injunction restraining the defendant and or his agents from interfering with the said property.
2. The defendant who was duly served with summons to enter appearance neither entered appearance nor filed a defence. The hearing therefore proceeded by way of formal proof.

PLAINTIFF'S CASE

3. The plaintiff who is based at Botswana gave his father Samson Akinala Ababu power of attorney to do anything appertaining to the suit property. The plaintiff's father testified that the plaintiff bought the suit land from the defendant in the year 2010. He produced a power of attorney duly registered at the Kitale Lands Office (exhibit 1). He also produced a copy of title deed as well as a search exhibit 2 and 3 respectively.
4. The plaintiff's father testified that since his son bought the suit land, he has never taken possession or utilised it in any way as the defendant and his family have refused to move from the suit land.

ANALYSIS OF EVIDENCE

5. The Plaintiff's evidence remains uncontroverted. The documents produced by the plaintiff i.e copy of title deed as well as search show that the plaintiff is the registered owner of the suit property. There is no caution lodged against the title to the suit property. It is therefore difficult to understand why the defendant is refusing to move out of the suit land which he sold to the plaintiff.

DECISION

6. I find that the plaintiff has proved his case on a balance of probabilities. An order is hereby issued that the defendant and or his agents be evicted from the suit land. A permanent injunction is hereby given restraining the defendant or his agents from in any way interfering with the suit land. The plaintiff shall have costs of this suit.

Dated, signed and delivered at Kitale on this 10th day of July, 2014.

E. OBAGA

JUDGE

In the presence of M/S Arunga for Plaintiff.

Court Clerk – Kassachoon.

E. OBAGA

JUDGE

10/7/2014