



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**  
**CIVIL SUIT NO. 135 OF 2009**

**JOSEPH MUTHURI IKUNYUA.....PLAINTIFF**

**VERSUS**

**JAMES MWITERI KINYUA & 3 OTHERS.....DEFENDANTS/RESPONDENTS**

**J U D G M E N T**

The suit was brought by way of Originating Summons. It urges the court to make the following determinations:

1. *Whether the plaintiff can be deprived from his (sic) developed land Title No. NTIMA/IGOKI/5219 after a stay of more than 20 years without any interference from the defendants.*
2. *Whether the plaintiff can be registered the absolute owner of Land title No. NTIMA/IGOKI/5219 by way of adverse possession for stay of more than 20 years by virtue of section 4 (4) of the Limitation of Actions Act Cap.22 Laws of Kenya?*
3. *Whether defendants are conspiring to defraud the plaintiff's land Title No NTIMA/IGOKI 5219 By using this Hon. Court after a stay of more than 20 years against Limitation of Actions Cap 22 (Laws of Kenya)?*

In paragraph 4 of the Originating Summons, the plaintiff says:

*4. "The subject matter arises out in the meaning of uttering of false documents herein by the defendants and criminal offence has been committed the same (sic)."*

The plaintiff prays that judgment be entered against the defendants in the following terms:-

1. *Plaintiff be registered the absolute owner of Land Title No. NTIMA/IGOKI/5219 by adverse possession.*
2. *Any other benefits this Hon. Court may deem fit to grant.*
3. *Costs of the suit.*

During the hearing of the suit, the defendants were not present. An affidavit of service showing that they were aware of today's hearing date had been duly filed in court.

The plaintiff complained that the defendants were in the habit of refusing to come to court even after proper service had been effected. He prayed for the orders he seeks in this suit.

I answer the questions posed by the plaintiff as follows:

1. ***Question 1 – The plaintiff can not be deprived of his developed land Title NO. NTIMA/IGOKI/5219 after a stay of more than 20 years without any interference from the defendants.***
2. ***Question 2 – The defendant can be registered owner of land Title No. Ntima/Igoki/5219 by way of adverse possession.***
3. ***I do not understand what is being conveyed in question 3.***

I grant the following orders:

1. ***That the plaintiff be registered absolute owner of Land Title No. NTIMA/IGOKI/5219 by way of adverse possession.***
2. ***As this is a matter involving brothers, I award no costs to the plaintiff.***

It is so ordered.

**Delivered in Open Court at Meru this 8th day of October, 2014 in the presence of:**

Cc Daniel/Lilian

Joseph Muthuri, Plaintiff, Present

Defendants Absent

**P. M. NJOROGE**

**JUDGE**