

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MALINDI

Civil Case 41 of 2007

ALI SAID KICHEO PLAINTIFF.

VERSUS

SAID BUYA..... DEFENDANT.

J U D G M E N T.

By a plaint dated 6th June, 2007 the plaintiff sued the defendant. He seeks eviction orders coupled with a permanent injunction restraining the defendant, his servants, agents, employees or any person claiming under him from interfering with **L.R. NO. TANA RIVER/WITU/557**.

At the hearing the plaintiff, **ALI SAID KICHEO**, testified that he is the registered proprietor of **L.R. No. TANA RIVER/WITU/557**. Notwithstanding his proprietary interest, the defendant has unlawfully declared the said parcel as his own, and has threatened the plaintiff with dire consequences if he attempts to cultivate the same.

That in addition thereto the defendant has hired agents, servants, employees, hooligans and goons to deal with him in the event he tries to carry on farming activities on the suit land.

On the premises, the plaintiff contended that the defendant has commenced cultivation on the subject parcel to his detriment.

On the available evidence, it is clear to me, on the one hand, section 27 of the Registered Land Act (Cap 300) Laws of Kenya that the plaintiff has absolute ownership of the subject parcel. On other hand, the defendant is a mere trespasser. He has no proprietary interest over the subject parcel.

On the premises, I am inclined to hold and find, as I hereby do, that the plaintiff has thus proved his case on a balance of probability.

Accordingly, I grant the plaintiff eviction orders coupled with a permanent injunction restraining the defendant, his servants, agents, employees or any person claiming under him from interfering with **L.R. TANA RIVER/WITU/557** I equally award costs of the suit and interest at court rates to the plaintiff. It is so ordered.

Dated and delivered at Malindi this 7th day of May, 2009.

N.R.O. OMBIJA.

JUDGE.

Michira for Plaintiff.

N/A for Defendant.