



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NYERI  
Civil Appeal 84 of 1998

ELIUD GATHUA.....APPELLANT  
Versus  
STEPHEN KIHU NJAGE.....RESPONDENT

JUDGMENT

In this suit parties are disputing over title to a parcel of land No. LOC. 10/WANJENGI/584 without tendering in the evidence the relevant documents of title from the land registry yet this is land registered under the Registered Land Act.

In a case like this one, evidence of the Land Registrar was vital to produce relevant documents of title and of any transaction that took place. Evidence from the Land Control Board, if there was any, is also important.

Although the Appellant failed to attend court to give his side of the story, the evidence the Respondent adduced in court was not sufficient to establish her case even on the balance of probabilities. Those allegations were not confirmed.

In the circumstances, this appeal is allowed and I do hereby order a retrial before another magistrate of competent jurisdiction.

The Respondent to pay costs of this appeal to the Appellant.

**Dated this 1st day of July 2005.**

**J. M. KHAMONI**  
**JUDGE**