

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CIVIL SUIT NO. 180 OF 1999

JAMES GICHURE KIONGA.....PLAINTIFF
VERSUS
PATRICK NGOTHO MURAGURI.....DEFENDANT

JUDGMENT

According to the Plaintiff he has at all material times been the registered owner and proprietor of all that parcel of land known as **LR. Dundori/Muguathi Block 2/48** situated in Dundori measuring 0.6 Ha having bought the same from Kalenjin Enterprises and issued with a Title Deed on 28th August, 1996 and has been in possession thereof to-date.

In order to support the above, the Plaintiff produced the Title Deed and Green Card – **Exhibit 1 and 2**. Despite the above, the Defendant entered the land in January, 1997 and cultivated the same without the authority of the Plaintiff. However, since 1998 upto now, the Plaintiff has been ploughing the land. The Plaintiff has prayed for an injunction against the Defendant or his Agents and/or servants from interfering with the above parcel of land.

Though Mr. Muhia appeared in Court on several occasions, he never filed any defence despite the fact that I granted him 15 days to do so on 26th April, 2005. At that particular time, the Court also noted that Mr. Muhia had been appearing in Court for the last 6 years on behalf of the Defendant. From the above, it is apparent that the Defendant himself has **not** been interested in the case at all – otherwise he would have been in constant touch with his Counsel over the last 6 years.

Having stated the above, it is crystal-clear that the evidence of the Plaintiff has **not** been challenged **nor** controverted by the Defendant. The evidence of the Plaintiff was cogent, logical and overwhelming. The upshot is that the Plaintiff has proved his case on a balance of probabilities and hence I hereby enter judgment in his favour on the following terms:

(a) I hereby issue a permanent injunction restraining the Defendant, his Agents and/or servants from trespassing, cultivating, occupying or from interfering in any manner with LR. No. Dundori/Muguathi Block 2/48.

(b) Costs to the Plaintiff in any event.

MUGA APONDI

JUDGE

Judgment read, signed and delivered in open Court in the presence of Mr. Githui for Mr.

Mungai Mbugua for Plaintiff.

Mr. Muhia for Defendant – Absent.

MUGA APONDI

JUDGE

6TH JULY, 2005