



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 87 OF 2017

KIPKEMOI KIPLAGAT.....1ST PLAINTIFF

VERSUS

DINAH MICHAEL.....1ST DEFENDANT

CHRISTOPHER KIBET MUTAI.....2ND DEFENDANT

PATRICK KIPKOECH MUTAI.....3RD DEFENDANT

JOSEPH KIPTOO MUTAI.....4TH DEFENDANT

JUDGMENT

1. The defendants in this suit, despite being served with summons, plaint and verifying affidavit, never entered appearance or filed any defence hence the suit proceeded ex-parte against them.

2. In the plaint dated 3/5/2017 that was filed on 10/5/2017, the plaintiff seeks the following orders:

(a) A declaration that the defendants have no proprietary rights over the suit land Title Number Trans Nzoia /Suwerwa /212;

(b) An order of eviction to issue against the defendants their families, agents and servants from the suit land;

(c) A permanent injunction restraining the defendants their families' agents and /or servants from trespassing on, dealing with or in any other manner interfering with the plaintiff's interest in the suit land.

3. The plaint states that the defendants are licencees who were only temporarily allowed on the land by the plaintiff as caretakers. Their late father was according to the plaint was also allowed to stay on the land.

4. However, according to the plaintiffs, the defendants have now parted with possession of the land by leasing it to strangers without the plaintiff's consent. They also became uncooperative and hostile to the plaintiff when asked to vacate the suit land hence the suit.

5. The plaintiff, testified on 12/11/2018. He adopted his statement filed in court record dated 3/5/2017 as his evidence-in-chief. I have examined that statement and the plaint. The defendants have not opposed the claim.

6. The plaintiff produced the original title to the land, it is registered in his name. It was issued on 26/2/2015. I find that the plaintiff has established his claim on a balance of probabilities against the defendants. Consequently I hereby enter judgment in favour of the plaintiff against the defendants jointly and severally and I hereby grant the following orders:

(a) A declaration that the defendants have no proprietary rights over the suit land Title Number Trans Nzoia /Suwerwa /212;

(b) An order of eviction to issue against the defendants their families, agents and servants from the suit land;

(c) A permanent injunction restraining the defendants their families, agents and /or servants from trespassing on, dealing with or in any other manner interfering with the plaintiff's interest in the suit land.

Dated, signed and delivered at Kitale on this 29th day of January, 2019.

MWANGI NJOROGE

JUDGE

29/01/2019

Coram:

Before - Hon. Mwangi Njoroge, Judge

Court Assistant - Picoty

N/A for the plaintiff

N/A for the defendants

COURT

Judgment read in open court.

MWANGI NJOROGE

JUDGE

29/01/2019