



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 266 OF 2016

STEPHEN MUCHUI M'NDIENE (suing on behalf of the ESTATE

OF M'NDIENE M'NJIRUU MWIRAGUA (DECEASED).....PLAINTIFF

VERSUS

JACOB GATOBU M'ATAYA.....DEFENDANT

JUDGMENT

1. The plaintiff has filed this suit on behalf of the estate of M'NDIENE M'NJIRUU MWIRAGUA (Deceased). He avers that deceased was the registered owner of parcel no. NYAMBENE/URINGU III/780 and that land parcel no. NYAMBENE/URINGU III/188 was curved from the other parcel no. 780.
2. According to plaintiff who testified as PW 1, a road was meant to pass through the area and each family was to be compensated with five acres of land at Meru forest. The deceased then gave defendant the subject suit land no. 188 to make it easier for deceased to get land at Meru forest. Apparently, the compensation arrangement was that no one was to benefit twice.
3. The compensation arrangement did not materialize as the road passed elsewhere. Then plaintiff's father passed on. However, the family of deceased is still the one in occupation of the suit land.
4. In support of this case, plaintiff produced as exhibit a copy of search for land parcel No. Nyambene/ Uringu 111/188, a demand notice, the caution and a copy of grant.
5. Defendant did not defend this suit despite the fact that he was served with summons to enter appearance.
6. I find that the copy of the official search indicates that the suit land no. Nyambene/Uringu III/188 is registered in the name of defendant (as from 19.8.2004). PW 1 has given a plausible account of how deceased caused the suit land to be registered in the name of defendant. I am inclined to find that plaintiff's claim is merited.
7. However, plaintiff has filed the suit on behalf of the estate of deceased and hence the reversal of the land should be to that estate.

8. Final orders:

- (1) **An order is hereby issued for the transfer of land parcel NO. NYAMBENE/URINGU III/188 from defendant's name to plaintiff's name whereby plaintiff is to be registered as a trustee for the estate of M'NDIENE M'NJIRUU M'MWIRAGUA.**
- (2) **The Deputy Registrar of this court is hereby authorized to sign all requisite documents to facilitate the aforementioned transfer.**
- (3) **The caution lodged herein is lifted to facilitate the transfer of the land.**
- (4) **No orders as to costs.**

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 13TH FEBRUARY, 2019

IN THE PRESENCE OF:-

C/A: Kananu

Nyakwara holding brief for Ogoti for plaintiff

HON. LUCY. N. MBUGUA

ELC JUDGE