

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E & L CASE NO. 953 OF 2012

[Formerly Eldoret Hccc No. 37 of 2010]

KIMOI CHERUIYOT.....PLAINTIFF

VERSUS

JOHANA SAWE ARAP BIWOT.....1ST DEFENDANT

CHEPKANGOR KIGEN alias

CHEPKANGORO KIGEN CHERUTICH.....2ND DEFENDANT

RULING

The plaintiff prays that this honourable court be pleased to review and set aside its judgment dated and delivered on 7.12.2018, upon granting the orders that it deems fit to grant. The application is grounded on fact that there is a mistake occasioned which is apparent on record and that the application has been made without unreasonable delay.

This court finds that there is an error apparent on the face of record as Kimoi Cheruiyot is deceased and was substituted by Geoffrey Kiprotich Ruto who testified in this matter but did not produce the grant of letters of administration intestate. I have seen the grant of letters of administration intestate and do find that the plaintiff had capacity in the matter. I do review judgment and do grant a declaration that parcel number Uasin Gishu/Elgeyo Border/219 is the property of the plaintiff and an order that the defendants have illegally trespassed on the said piece of parcel of land and hence the order of eviction be issued against the defendants both jointly and severally, their agents or servants evicting them from the said parcel of land. The plaintiff to give notice of 30 days before eviction.

I do find that general damages have not been proved. Costs to the plaintiff. Orders accordingly.

Dated and delivered at Eldoret this 30th day of May, 2019.

A. OMBWAYO

JUDGE