



down trees and commenced ploughing upon the said land. However, despite the fact that a report was made at Ol Moran police station, the defendants continue with the said trespass.

2. The plaintiff therefore prays for judgment against the defendants in the following terms;

**“a) A permanent injunction be and is hereby granted, restraining the 1<sup>st</sup> and 2<sup>nd</sup> and 3<sup>rd</sup> defendants their agents, employees or servants or anybody else acting on their behalf from trespassing, harassing or in any manner interfering with the quiet possession, ownership, occupation and use of LR No. SIPILI DONYOLOIP BLOCK 1/1960 (LAIKIPIA), by the plaintiff, their agents, employees or servants or anybody else acting on their behalf.**

**b) Cost of this suit be awarded to the plaintiff”.**

3. The defendants did not file any pleadings in this matter, hence the same proceeded as a formal proof.
4. PW1, Christopher Kimathi introduced himself as the legal manager of the plaintiff. He adopted his witness statement

dated 1.2. 2025 as his evidence. He also produced the documents in his list dated 4.4.2024 as P-Exh 1-10. His evidence is that the suit land was registered in the name of Xplico Insurance Co. on 18.12.2014, then to Edmund Muturi on 26.4.2018. That the plaintiff bought the suit land from Edmund via a sale that took place in November 2022, then the suit land was registered in favour of the plaintiff on 18.10.2023. However, the defendants have since trespassed on the suit land causing the plaintiff to breach an investment contract relating to free range goat breeding with investors from Doha-Qatar.

**5.** I have considered the pleadings, the evidence as well as the submissions of the plaintiff. It is noted that in the amended plaint, the claims for special, general as well as punitive damages was abandoned, thus the issue for determination is whether, the order for permanent injunction sought by the plaintiff should be issued.

**6.** The provisions of **Section 107 of the Evidence Act** stipulate that:

**“ (1) Whoever desires any court to give judgment as to any legal right or liability dependent on**

**the existence of facts which he asserts must prove that those facts exist.**

**(2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person”**

**7. In Samson S. Maitai & another V. African Safari Club Limited & Another [2010] eKLR, the court had this to say in relation to proof.**

**“Proof refers to evidence which satisfies the court as to the truth or falsity of a fact. Generally, as we well know, the burden of proof lies on the party who asserts the truth of the issue in dispute.”**

Also see **Kipkebe Limited v Peterson Ondieki Tai [2016]**

**eKLR Jennifer Nyambura Kamau v Humphrey Mbaka Nandi [2013] eKLR.**

**8. Thus even if the matter proceeded as a formal proof, the plaintiff has a legal duty to proof its case. A perusal of the documents of titles availed by the plaintiff indicates that indeed the land belonged to Explico Insurance, then it came**

to Edmund, then to the plaintiff. Thus the plaintiff is the lawfully registered owner of the suit land, and it is entitled to enjoy the suit land free from all other interests unless provided for by statutes in terms of section 25 of the Land Registration Act.

**9.** Some of the photographs availed by the plaintiff reveal that indeed the land is being ploughed. In the circumstances, I am in agreement with plaintiff's submissions that it has established a legal right, which right has been infringed. I therefore find that the plaintiff has proved its case on a balance of probabilities, and plaintiff's claim is allowed in terms of the amended plaint with costs.

**DATED, SIGNED AND DELIVERED AT NANYUKI THIS 25<sup>TH</sup> DAY OF FEBRUARY 2026 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA  
JUDGE**

**In the presence of:**

Karongo for plaintiff

Nancy Mwangi – Court Assistant

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