



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CASE NO. 28 OF 2019

NTARA OLE OLOIBOR.....PLAINTIFF

-VERSUS-

MUSANA OLE MASOI.....DEFENDANT

JUDGEMENT

By a Plaint dated 6th May, 2019 the Plaintiff had sought for a declaration that he is the sole, absolute and exclusive owner and proprietor of the suit land known as Trans Mara/Kimintet/490, a permanent injunction restraining the Defendant, his servants, agents from trespassing or interfering with the suit land and/or expanding their occupation over LR Trans Mara/Kimintet/490, an order of eviction and costs of the suit.

The Plaintiff contends that he is the registered owner of the suit land and sometimes in the year 2000, the defendant had entered into the land with the permission of the plaintiff to seek for temporary refuge together with his mother as they were landless and when the mother died he allowed the Defendant to bury the deceased on the land and later assisted the Defendant to acquire another parcel of land being Trans Mara/Nkararo/807.

The Plaintiff claims that the Defendant has no interest in the suit land. The Defendant though served with the Plaint he never entered appearance nor file any defence and hence the suit proceeded without his participation.

The Plaintiff in his evidence in chief produced title deed, a certified copy of official search and copy of green card all bearing the Plaintiff's name.

I have considered the Plaintiff's testimony and documents produced and I find that the Plaintiff has proved his case on a balance of probabilities and in the circumstances I enter judgement for the Plaintiff against the Defendant in the following terms:-

1. That a declaration do issue that the Plaintiff is the absolute owner of land parcel No. Trans Mara/Kimintet/490.
2. That a permanent injunction do issue restraining the Defendant from trespassing and interfering with the plaintiff's activities and occupation in the suit land.
3. The Defendant to vacate the suit land within 60 days of this judgement in default eviction orders to issue
4. Cost of the suit to the Plaintiff.

DATED, SIGNED and DELIVERED in open court at NAROK on this 28th day of October, 2019

Mohammed Kullow

Judge

28/10/19

In the presence of: -

CA:Kimiriny

Ms Adala for the holding brief for O.M. Otieno for the Plaintiff

N/A for the Defendant

Mohammed Kullow

Judge

28/10/19