



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MOMBASA

MSC CIVIL APPLICATION NO 132 OF 2014 (O.S)

SAFARI KALUME MWAGONA.....PLAINTIFF

VERSUS

KENYA NATIONAL ASSURANCE CO. (2001) LTD

(Formerly, Kenya National Assurance Company Ltd.....DEFENDANT

JUDGMENT

1. The Plaintiff has come to court by Originating Summons dated 28th April, 2014. The same is supported by the affidavit sworn by himself Safari Kalume Mwagona on the 28th April, 2014.
2. By an order of the court the Respondent was served through advertisement in the Daily Nation. The extract was attached to the Originating Summons.
3. The Defendant did not file any response to the Plaintiff's claim. Interlocutory judgment was then entered and the matter proceeded to formal proof.
4. The Plaintiff filed a witness statement dated 24th October, 2017. I have tried to go through the same but I am unable to comprehend it.
5. In paragraph 5 of his affidavit in support, the Plaintiff admits there exists Mombasa HCCC No. 440 of 2002 (O.S).
6. He claims to have bought the parcels of land from Charo Kazungu Matsere. He has attached a sale agreement. The said sale agreement does not give a description of the parcels of land he was buying.
7. The Plaintiff has not annexed a copy of the title deed for the parcels in which he claims adversely. This is contrary to Section 38 of the Limitation of Actions Act and Order 37 Rule 7 of the Civil Procedure Rules.
8. I find this suit incompetent and the same is dismissed with no orders as to costs.
9. The Plaintiff has an option of applying to be enjoined in Mombasa HCCC 440 of 2002(O.S) so as to ventilate his claim.

It is ordered.

Dated, signed and delivered at Mombasa on the 28th day of February 2018.

L. KOMINGOI

JUDGE

28/2/2018