



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT MACHAKOS**

**ELC. CASE NO. 117 OF 2017**

**MUTUVI MUNYAO .....1<sup>ST</sup> PLAINTIFF**

**DAVID NDAVI MUNYAO .....2<sup>ND</sup> PLAINTIFF**

**DAVID MBUTA MUNYAO .....3<sup>RD</sup> PLAINTIFF**

**VERSUS**

**MBAI MUNYAO.....DEFENDANT**

**JUDGMENT**

1. In the Complaint, the Plaintiffs averred that the parcel of land known as Matinyani/Kalindilo/457 was owned by the father of the parties herein; that the Defendant, being the brother of the Plaintiffs, was adjudicated as the owner of the land and that he holds the said land in trust for the Plaintiffs.
2. The Plaintiffs are seeking for a declaration that the Defendant holds the suit land in trust for them and an order directing the Defendant to cause the sub-division of the said land into four equal portions and have separate title documents issued.
3. Although the Defendant was served with the Complaint and Summons, he neither entered appearance nor filed a Defence.
4. The 1<sup>st</sup> Plaintiff and the Plaintiffs' cousin, PW1 and PW2 appeared before me and repeated what has been averred in the Complaint.
5. PW1 stated that parcel of land number Matinyani/Kalindilo/457 (*the suit land*) was owned by their late father; that during the adjudication process, the land was registered in favour of the Defendant who is their elder brother and that the Defendant is holding the title document in trust for all the Plaintiffs.
6. Considering that the Plaintiffs' averments have not been controverted by the Defendant, I find that indeed the Defendant is holding the Title Deed in respect to parcel of land known as Matinyani/Kalindilo/457 in trust for the Plaintiffs.
7. I therefore allow the Complaint dated 7<sup>th</sup> March, 2017 as prayed.

**DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 23<sup>RD</sup> DAY OF FEBRUARY, 2018.**

**O.A. ANGOTE**

**JUDGE**