



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MOMBASA

ELC NO 228 OF 2016

AMOS MUTUNGI.....PLAINTIFF

VERSUS

FRANCIS NJIHIA CHEGE.....DEFENDANT

JUDGMENT

1. The Plaintiff has filed this suit against the Defendant seeking:

- a) **A declaration to issue declaring the Plaintiff as the rightful owner of Plot No 750 Taveta Phase 1 Settlement Scheme.**
- b) **An order to issue revoking and removing the Defendants' name from Title to Plot No. 750 Taveta Phase 1 Settlement Scheme.**
- c) **An order to issue directing the Land Registrar Wundanyi to register the Plaintiff as the owner and issue him with a title deed.**
- d) **The court to be pleased to grant any other relief it thinks fit to grant.**
- e) **The court to award costs and interest.**

2. The Defendant who was duly served by way of advertisement in the Daily Nation Newspaper of 2nd December, 2016 neglected to enter appearance and/or file defence within the prescribed period. The Plaintiff set down the suit for hearing.

3. It is the Plaintiff's case that he was allocated Plot No. 750 Taveta Phase 1 Settlement Scheme. He produced a letter of offer dated 25th May, 2012 as exhibit P1, payment receipt as exhibit P2 and a map sheet of the area as exhibit P3.

4. He was surprised when the plot was registered in the names of the Defendant. He went to the Land Registry and confirmed. He is in occupation of the said Plot. He is undertaking some farming on the same. He prays that the title deed issued to the Defendant be cancelled and that he (Plaintiff) be issued with a title deed.

5. I have considered the pleadings, the exhibits produced and the submissions on record. The Plaintiff's case is uncontroverted. I find that he has proved his case as against the Defendant on a balance of probabilities.

6. I hereby enter judgment in favour of the Plaintiff as against the Defendant as follows:

- a) **That a declaration is hereby issued that the Plaintiff is the rightful owner of Plot No. 750 Taveta Phase 1 Settlement Scheme.**
- b) **An order be and is hereby issued to revoke and remove the Defendant's name from Title to Plot No. 750 Taveta Phase 1 Settlement Scheme.**
- c) **An order be and is hereby issued directing the Land Registrar Wundanyi to register the Plaintiff as the owner and issue him with a title deed.**
- d) **The Plaintiff do have costs of the suit and interest.**

It is ordered.

Dated, Signed and Delivered at *Mombasa* on the *7th* day of *March* 2018.

L. KOMINGOI

JUDGE

7/3/2018