



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS**

**ELC. CASE NO. 242 OF 2017**

**JOHN MUTISYA KIOKO.....PLAINTIFF**

**VERSUS**

**SAMUEL WAMBUA NYUNGU.....1<sup>ST</sup> DEFENDANT**

**JOHN MWINZI NYUNGU.....2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

1. In the Plaintiff dated 16<sup>th</sup> May, 2017, the Plaintiff averred that at all material times, the Plaintiff was the lawful and legal owner of parcel of land known as Mitamboni/Mbee/1681 measuring 0.11Ha (*the suit land*); that he bought the said land from Amos Muli Nyungu and that the Defendants have now illegally encroached on the said land.
2. The Plaintiff is seeking for a permanent injunction restraining the Defendants from interfering with the suit land and for an order of eviction of the Defendants. The Plaintiff is also seeking for an order of general damages for trespass.
3. Although the Defendants were served with the Summons to Enter Appearance and the Plaintiff, they neither entered appearance nor filed a Defence.
4. The matter proceeded for hearing on 16<sup>th</sup> October, 2017.
5. The Plaintiff, PW1, informed the court that he bought the land from Amos Muli Nyungu and that the land was transferred to him. The Plaintiff produced the copies of the Sale Agreements that he entered into with the said Amos Nyungu and the Title Deed that was issued to him on 3<sup>rd</sup> November, 2014.
6. In view of the fact that the Plaintiff is the registered proprietor of the suit land, and in the absence of evidence to show that he procured the said Title Deed fraudulently or by mistake, I find that the Plaintiff has proved his case on a balance of probabilities.
7. I therefore allow the Plaintiff dated 16<sup>th</sup> May, 2017 as prayed.

**DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 2<sup>ND</sup> DAY OF MARCH, 2018.**

**O.A. ANGOTE**

**JUDGE**