



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MOMBASA

ELC SUIT NO 29 OF 2014.

MOHAMED HASSAN ALI.....PLAINTIFF

VERSUS

JOSEPH KARIUKI KIBAARA.....DEFENDANT

JUDGMENT

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

- a) **A permanent injunction order restraining the Defendant either by himself, agent or servant from selling, transferring or in any form dealing with Plot Numbers MN/11/10884 and MN/11/10885 otherwise than transferring to the Plaintiff.**
- b) **A mandatory injunction order directing the Defendant to cause completion of the sale of said Plots Number MN/11/10884 and MN/11/10885 (Original 199/11/MN) by processing the Title Deeds and transferring the same to the Plaintiff.**
- c) **Costs of this suit.**
- d) **Any other relief this Honourable Court may deem fit to offer.**

2. The Defendant was duly served with copies of plaint and summons to enter appearance neglected to enter appearance and/or file defence within the stipulated period.

The Plaintiff then set down the suit hearing.

3. It is the Plaintiff's case that he bought the two plots from the Defendant in 2007. He produced copies of the sale agreements dated 23rd July, 2007 as exhibits P1 and P2. A copy of the receipt dated 23rd July, 2007 Exhibits P3. A copy of the deed plan for Plot No 10884/11/MN as Exhibit P4. A copy of the deed plan for Plot No. 10885/11/MN as Exhibits P5.

4. He said he paid a total of Kshs.450,000/= for the two plots. He further told the court that the Defendant has refused to facilitate him so that he can be issued with title deeds. Without being issued with title deeds he will not be able to develop the said plots.

5. I have considered the Plaintiff's case in totality. I find that the same is uncontroverted. I find that the Plaintiff has proved his case on a balance of probability as against the Defendant. I enter judgment in his favour as follows;

- a) **That a permanent injunction be and is hereby issued restraining the Defendant either by himself and or agents or servants form selling, transferring or in any way dealing with Plot Numbers MN/11/10884 and MN/11/10885 otherwise than transferring to the Plaintiff.**
- b) **That a mandatory injunction be and is hereby issued directing the Defendant to cause completion of the sale of the said MN/11/108854 and MN/11/10885 (Original 199/11/MN) by processing the title deeds and transferring the same to the Plaintiff.**
- c) **Costs of the suit.**

It is ordered.

Dated, Signed and Delivered at *Mombasa* on the 18th day of *April* 2018.

L. KOMINGOI

JUDGE

18/4/2018.