



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 243 OF 2017

FORMERLY NAKURU ELC NO. 346 OF 2011

SAMWEL L. LANGAT.....PLAINTIFF

-VERSUS-

CHELULE TUIMISING.....1ST DEFENDANT

ZEPHANIAH YEGON.....2ND DEFENDANT

KOSIA SET KOBOR SELF HELP GROUP.....3RD DEFENDANT

JUDGEMENT

The suit herein was commenced by way of a Plaint dated 6th January, 2006. It is the Plaintiff's case that he was a member of Kosia Set Kobor Group that is the registered owner of Land Parcel Reference No. **CIS MARA/OLOCHORO-OIROUA/111** measuring about 168,75 hectares and that he has fully paid all membership and share contributions and is thus entitled to about 18 acres of the aforesaid land.

The Plaintiff avers that it was agreed between him and the Defendants that upon completion of the payment of his membership and share contribution he will be entitled to a portion of the land owned by the group and states that despite the above the defendants sub-divided the suit land and excluded him.

The Plaintiff has thus approached the court for a declaratory order that he is entitled to 18 acres out of land parcel **CIS MARA/OLCHORO-OIROUA/111** and further an order of a permanent injunction against the Defendants from entering, using or occupying the 18 acres that will be transferred.

The Defendants herein filed their defence to the suit and denied that the Plaintiff is a member of Kosia Set Kobor Group and that he had withdrawn his membership from the group and was granted his request and thus they denied every allegation that was made.

When the suit came up for hearing the plaintiff herein testified on his own behalf on oath and he called two witnesses. He stated that the Defendants are the registered transferees of the Defendant Group which he joined in 1992 and he paid kshs. 200 as membership fees. He further stated that during the period 1992 to 24th August, 1996 he paid the total sum of kshs. 242,200/- as shares for 18 acres of land. He produced a bundle of receipts as evidence of the said payment.

The Plaintiff contends that the Defendants have failed and refused to exercise the said parcel of land despite full payment of his shares.

The Plaintiff called two witnesses Samuel Mutai PW2 and Simon Sanga PW3 who both testified that they are neighbours to the Plaintiff and were members of the Defendant Group and that they were aware that the Plaintiff had paid his contributions.

The Defendants did not appear in court on the hearing date.

I have heard the evidence of the Plaintiff and that of his witnesses which remain unchallenged. The Defendants though they filed a Defence did not subject the Plaintiff to cross-exam and their Defence amounted to mere denials no documents were produced before me that the plaintiff has resigned/and/or withdrawn as a member. The date of his voluntary resignation from the group is not given.

In view of the above I find that the Plaintiff has proved his case on a balance of probability and I thus enter Judgement for the plaintiff in the following terms:-

- i. That the Plaintiff was a bonafide member of Kosia set Kobor Group.

ii. That the Plaintiff is entitled to 18 acres of land from that parcel CIS **MARA/OLOCHORO-OIROUA/111** and the Defendant to cause sub-division of the land and allocate the Plaintiff the said 18 acres.

iii. Costs to the Plaintiff.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **22nd** day of **MAY, 2018**

Mohammed Noor Kullow

Judge

22/5/18

In the presence of:

CA:Chuma

Mr. Kambo holding brief for Ms Chepngetich for the plaintiff

N/A for the defendant

Mohammed Noor Kullow

Judge

22/5/18