

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAKAMEGA

ELC CASE NO. 206 OF 2016

KALASINA W. OMANYO.....PLAINTIFF

VERSUS

LUCAS OMONDI OMONYO.....DEFENDANT

JUDGEMENT

The plaintiff case is that, she is the owner of parcel of land No. S/Wanga.Buchifi/2566 whereas the defendant is the owner of parcel of land No. S/Wanga/Buchifi/2565 and they share a common boundary. The plaintiff avers that the defendant has encumbered into her parcel of land No. S/Wanga/Buchifi/2566 extending his land No. S/Wanga/Buchifi/2565 into the plaintiff's land. The plaintiff therefore prays for an order that their common boundary separating their parcels of land be rectified by the land registrar and government surveyor to avoid further dispute over the same. The plaintiff further avers that instead of following the due process of land the defendant has resorted to use his position as a senior in the family and a man to intimidate and harass the plaintiff over the subject matter above. The plaintiff prayer against the defendant is for; an order directing the Land Registrar and Government surveyor to visit the plaintiff and defendants parcels of land No. S/Wanga/Buchifi/2566 and S/Wanga/Buchifi/2565 and rectify and confirm the common boundaries and costs of this suit.

The defendant denies in totally that he has ever encumbering the plaintiff's parcel of land better known as L.R. No. S/Wanga/Buchifi/2566. In the alternative and without prejudice the defendant is ready and willing to have the boundaries separating parcels of land No. S/Wanga/Buchifi/2565 and 2566. The defendant prays that the plaintiff's suit be dismissed.

This court has carefully considered both the plaintiff's and the defendant's cases. PW1 testified that she was allocated land about 9 acres from her late father's land via succession from L.P No. S/Wanga/Buchifi/475. That the same land is subdivided and now I own parcel No. S/Wanga/Buchifi/2566. That after subdivision of the said land it gave rise to new nos' 2565 belonging to Lucas Omondi Omanyoo and 2566 to her. That there are no clear boundaries over the two parcels and as such the defendant is using that advantage to dig a bigger piece. She prays to this court to direct the Land Registrar and District surveyor to establish the boundaries. The defendant is ready and willing to have the boundaries separating parcels of land No. S/Wanga/Buchifi/2565 and 2566. I therefore grant the following orders;

1. The Land Registrar and Land Surveyor to visit the plaintiff and defendants parcels of land No. S/Wanga/Buchifi/2566 and S/Wanga/Buchifi/2565 and confirm the common boundaries and the parties to share the costs.
2. Each party to bear their own costs of this suit.

It is so ordered.

DELIVERED, DATED AND SIGNED AT KAKAMEGA IN OPEN COURT THIS 16TH DAY OF MAY 2018.

N.A. MATHEKA

JUDGE