



REPUBLIC OF KENYA

IN THE ENVIRONMENT & LAND COURT

AT MOMBASA

ELC NO. 3 OF 2013

HAMIDU MOSES MRUTTU.....PLAINTIFF

VERSUS

S.M. RASHID.....DEFENDANT

JUDGMENT

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

- a) **An order of permanent injunction to issue against the Defendants, their servants, agents, assigns and/or employees restraining them from trespassing, alienating, occupying, constructing or otherwise interfering with the suit premises.**
- b) **A declaration that the Plaintiff is the bona fide owner of the suit premises.**
- c) **Any other relief this court may deem fit under its jurisdiction.**
- d) **Costs of this suit.**

2. The Defendants who were duly served with summons to enter appearance and copies of plaint neglected to enter appearance and/or filed defence within the stipulated period. The matter therefore proceeded exparte.

3. It is the Plaintiff's case that he is the owner of the suit premises. He sought that his witness statement dated 4th January, 2013 be adopted as part of his evidence.

In support of his case, he produced the following documents;

- i) **A part development plan.**
- ii) **Power of Attorney.**
- iii) **A letter dated 11th December, 1995.**
- iv) **A letter dated 5th January, 1996.**
- v) **A Bankers cheque dated 21st November, 2011.**
- vi) **A Bankers cheque dated 21st November, 2011.**
- vii) **A letter for Kshs.111,810 of allotment dated 12th July, 1996.**
- viii) **Sale agreement.**
- ix) **Letters from Town Council of Taveta.**

x) Letters by the Plaintiff dated 18th May, 2012.

xi) Photographs of stones.

All these documents were produced as a bundle as exhibit P1.

4. The Plaintiff further told the court that the Defendants have trespassed on his parcel of land. He seeks orders of permanent injunction against them.

5. The Plaintiff's case is uncontroverted. I find that he has made out a good case against the Defendants jointly and severally.

6. I hereby enter judgment in his favour as against the Defendants as follows;

a) That an order of permanent injunction be and is hereby issued restraining the Defendants, their servants, agents, assigns and/or employees from trespassing, alienating, occupying, constructing or otherwise interfering with the suit premises being unregistered plot Number 34296/IV within Taita Taveta County.

b) A declaration be and is hereby issued that the Plaintiff is the bona fide owner of the suit premises being unregistered Plot Number 34296/IV within Taita Taveta County.

c) Costs of the suit and interest.

It is so ordered.

DATED, and SIGNED at MOMBASA on the 13th day of June, 2018.

L. KOMINGOI

JUDGE

DATED, SIGNED and DELIVERED at MOMBASA on the 13th day of June, 2018.

A. OMOLLO

JUDGE