



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 232 OF 2017

FORMERLY NAKURU HCC NO 2 OF 2011

OLOOLAIMUITA LODGE CO. LTD.....PLAINTIFF

-VERSUS-

SIANA MAASAI MARA CONSERVANCY.....1ST DEFENDANT

SAMMY NKOITL.....2ND DEFENDANT

SIANA WILDLIFE REGISTERED TRUSTEES.....3RD DEFENDANT

SIANA GROUP RANCH.....4TH DEFENDANT

JUDGEMENT

The suit herein was brought by way of an amended plaint dated 20th January, 2011. The Plaintiffs claim against the Defendant is for a permanent injunction restraining the Defendants from erecting barriers stopping access to the plaintiffs property and a permanent injunction restraining the Defendants from demanding or enforcing entry charges against the Plaintiff and visitors to its property.

The Plaintiffs are tenant and landlord respectively where the 2nd Plaintiff operates a tourist lodge outside the Maasi Mara Game Reserve. The Plaintiff contends that the Defendants are demanding the sum of USD 40 from visitors to the lodge which is located in a private land owned by the 2nd Defendant and unless the orders sought are granted they will be forced to pay illegal charges.

The Defendant filed their defence denying all the Plaintiffs allegations and further that the land the Plaintiff's occupy is trust land and is private and the same being community land their lease is null and void.

Further to the above the defendants in their defence contend that they have not compelled the Plaintiffs not their visitors to buy tickets but addressed the issues of access gates and game viewing circuits.

When the suit herein was heard the Plaintiff called two witnesses who testified on their behalf and the defendants did not appear during the hearing not did they come to testify or produce any documents in support of their case.

From the evidence before me the plaintiffs' testimony remain unchallenged and uncontroverted by the failure of the defendants to appear and challenge the Plaintiffs evidence and it is my finding the Defendants defence remains substantiated.

The Plaintiffs evidence having not been challenged I find that the Plaintiffs have proved their case on a balance of probabilities and have satisfied the conditions for the grants of orders of injunction and I thus enter judgment for the plaintiffs against the Defendants in the following terms:-

1. That a permanent injunction is hereby issued restraining the Defendants by themselves or whomsoever from acting on their instructions from demanding or enforcing entry charges against the Plaintiffs or their visitors to the property known as LR No. 16216 situated within Narok County.
2. A permanent injunction is hereby issued against the Defendants by themselves or whomsoever is acting on their instructions from erecting barriers and stopping access to the Plaintiffs property known as LR No. 16216.
3. A declaration is hereby issued that all charges and levies demanded by the 1st and 2nd defendants from the Plaintiffs or their

visitors to the Plaintiffs property are illegal null and void.

4. Costs of the suit is to the Plaintiff.

DATED, SIGNED and DELIVERED in open court at NAROK on this 23rd day of July, 2018.

Mohammed Noor Kullow

Judge

23/7/18

In the presence of:

N/A by parties and their advocates

CA:Chuma

Mohammed Noor Kullow

Judge

23/7/18