



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KERUGOYA

ELC CASE NO. 154 OF 2016

MUTHIKE MWAI.....1ST PLAINTIFF/APPLICANT

MOSES MURIUKI MWAI.....2ND PLAINTIFF/APPLICANT

KIACURU MWANGI MATHANGU.....3RD PLAINTIFF/APPLICANT

JAMES NGABU MWAI.....4TH PLAINTIFF/APPLICANT

STEPHEN MATHANGU MWAI.....5TH PLAINTIFF/APPLICANT

VERSUS

THE COUNTY GOVERNMENT OF KIRINAYGA.....DEFENDANT

JUDGMENT

[1] The plaintiffs filed this suit against the defendant and claimed that they have been at all material times been the registered owners of land parcel MWERUA/KAGIO/2647 measuring 6.5 acres or thereabout situated near Kagio Market in Kirinyaga County. Further that the defendant without any colour of right have placed restriction on the said land on 20th March 2013. That the said restriction has restricted the user of the land and that the plaintiffs continue to suffer loss and damage. The plaintiffs therefore pray for an order of the removal of the said restriction and a permanent injunction to issue against the defendant, its agents and anyone claiming through it from entering, removing, developing or in any way interfering with the plaintiffs' peaceful right of use of the said land.

They also seek for general and punitive damages.

[2] The defendant was duly served on 3rd November 2016 at 3 p.m. at their offices in Kutus and there is a return of service by Joseph Nduku Njuki an advocate of the High Court.

[3] The defendant did not file any appearance or defence and the suit was formerly proved by the plaintiffs in Court. The notice of formal proof dated 26th September 2017 was served on the office of the County Secretary on 28th September 2017 and a duly stamped copy is in the Court file. A return of service dated 2nd October 2017 is filed in Court.

[4] The parties produced the signed copy of the title of MWERUA/KAGIO/2647 in the names Muthike Mwai and others in Court on 2nd May 2018.

[5] There being no appearance and or defence in this case, this suit is not opposed. The prayers in the plaint are allowed as prayed other than the prayers for damages which were not proved before me.

It is so ordered.

S.N. MUKUNYA

JUDGE

6TH JULY, 2018

6/7/2018

Before

S.N. Mukunya – Judge

Okatch – C/A

Plaintiffs

Defendant

Mr. Nduku for the Plaintiffs

Defendant did not appear

Judgment read in open Court at Kerugoya before counsel for the Plaintiffs.

S.N. MUKUNYA

JUDGE

6TH JULY, 2018