



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KITALE**

**LAND CASE NO. 11 OF 2017**

**REGISTERED TRUSTEES LEGIONS OF MARY.....PLAINTIFF**

**VERSUS**

**MARY TIOKO EKUWOM.....DEFENDANT**

**J U D G M E N T**

1. In the plaint dated **11/1/2017** filed in this suit on **30/1/2017** the plaintiff seeks the following prayers:-

- a) **That an order of eviction of the defendant her servants/agents or anyone claiming through her from Plot No. 221 Nakwamekwi.**
- b) **An order of permanent injunction in terms of paragraph 8 of the plaint.**
- c) **Costs and interest thereon.**
- d) **Any other relief that the court may deem just and fit to grant.**

2. The affidavit of Samwel Nyang'au Getonto a court process server dated **2/3/2017** was filed on **23/3/2017**. It shows that service of the summons to enter appearance plaint and other documents in the suit was effected upon the defendant on **3/3/2017**. Despite that the defendant never filed any memorandum of appearance or defence. She never appeared at the hearing when this case was listed for formal proof. The plaintiff alone testified in the suit.

3. According to the plaint and the plaintiff's evidence the plaintiff is a body corporate, the Registered Trustees of the Legions of **Mary (St. Monicah Bethlehem) Lodwar**, which is the lawful allottee of **Plot No. 221, Nakwamekwi/Red Bana** from Municipal Council of Lodwar, the predecessor of the County Government of Turkana vide **Minute No. PA/1/14/92 of 23<sup>rd</sup> September, 1992**. The plaintiff avers that the defendant was a licensee on the said **Plot No 221 Nakwamekwi** prior to the withdrawal of the said license in **2012** and the plaintiff has given notice to the defendant to vacate the premises.

4. It is the plaintiff's case that prior to the termination of the defendant's license on **Plot 221** the defendant had been accommodated on the understanding that she was professing the Legion of Mary faith and was in the process of getting baptized. The plaintiff further states that contrary to its expectation the defendant prior to baptism started distorting the church doctrine by bringing into the church 2 boys from Lokichoggio by the names of Samson and Keya respectively whom she claimed to be angels and messengers from God which was in flagrant breach of the rules and regulations of the Church. The plaintiff states that even after the expulsion from the suit premises the defendant has continued to trespass into the said Plot 221 (suit premises) and also continued to wear the religious regalia only meant for Legion of Mary faithful and, worse still, continues to mislead the plaintiff's faithful through strange and unchristian distortions/preaching.

5. The plaintiff's witness, Philip Emulango Etilit, adopted the statement that he filed in this suit on **30/1/2017** as his evidence-in-chief. Receipts issued to an entity by the name "St Monica Bethlehem Legion of Mary" in respect of allotment and plot rent for an unidentified plot were produced in evidence. An original allotment letter for Plot No. 221 was also produced. The allottee named therein is "St Monica Bethlehem". The plaintiff in this case is "Registered Trustees Legions of Mary". No link between the two has been drawn by the witness. I find that the name of the allottee and the name of the plaintiff are different. I am not convinced that the matters herein are purely land matters and I am of the opinion that some entity or individual out there is out to abuse the court process. I do not find any justiciable cause of action revealed in the plaint or in the evidence of the plaintiff. I hereby dismiss this suit with costs.

**Dated, signed and delivered at Kitale on this 19<sup>th</sup> day of September, 2018.**

**MWANGI NJOROGE**

**JUDGE**

**19/9/2018**

Coram: Before Mwangi Njoroge, Judge

Court Assistant - Picoty

Mr. Analo for the plaintiff

N/A for the defendant

**COURT**

Judgment read in open court.

**MWANGI NJOROGE**

**JUDGE**

**19/9/2018**