



**REPUBLIC OF KENYA**

**ENVIRONMENT AND LAND COURT AT KITALE**

**LAND CASE NO. 68 OF 2017**

**MICHAEL WAFULA.....PLAINTIFF**

**VERSUS**

**DAVID ONGERI ANGWEYL.....1<sup>ST</sup> DEFENDANT**

**ANORI BARASA MANYORORI.....2<sup>ND</sup> DEFENDANT**

**FRANCIS ASHOYA ANYANGO.....3<sup>RD</sup> DEFENDANT**

**FRED WAFULA FRANCIS.....4<sup>TH</sup> DEFENDANT**

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

1. In the plaint dated 23<sup>rd</sup> March, 2017 and filed in court on 11<sup>th</sup> April, 2017 the plaintiff seeks the following prayers:-

**(a) An order of eviction to remove the defendants, their families, servants and/or agents and/or any other person (s) acting or claiming interest through them from land parcel Kiminini/Matunda Block 10/Matunda/37 together with all and/or any of their structures being thereon at their own cost.**

**(b) Costs and interest thereon.**

**(c) Any other appropriate relief this honourable court may deem fit to grant.**

2. The hearing of this suit took place on 11/10/2018 after the court became satisfied that service of plaint and summons had been effected upon the defendants, for the sworn affidavit of **George Mumali** a court process server dated 20<sup>th</sup> June, 2017 had been filed in the court record, showing that service of the summons to enter appearance, plaint and other documents in the suit was effected upon the defendants on 09/5/2017. The defendants never filed memorandum of appearance on 12/6/2017 through **Ms. Simiyu Wafula & Co. Advocates**. The defendants never appeared at the hearing when this case was listed for formal proof.

3. The plaintiff alone testified in the suit. I have considered his oral and documentary evidence. He produced the original title for plot number **Kiminini/Matunda Block 10/Matunda/37** issued in his name. He also produced a clearance certificate and an original survey fees receipt from Mt Elgon Investment Limited, Matunda Farm, also issued in his name.

4. The plaintiff's claim is unopposed. I find that the plaintiff has established his case on a balance of probabilities. Consequently, I enter judgment for the plaintiff against the defendants jointly and severally and issue the following orders:

**(a) The defendants, their families, servants and/or agents and/or any other person(s) acting or claiming interest through them over land parcel Kiminini/Matunda Block 10/Matunda/37 shall remove themselves and their property from the suit land that is Kiminini/Matunda Block 10/Matunda/37 at their own cost and in default they shall be forcibly evicted therefrom.**

**(b) The defendants shall bear the costs of this suit**

It is so ordered.

**Dated, signed and delivered at Kitale on this 26<sup>th</sup> day of November, 2018.**

**MWANGI NJOROGE**

**JUDGE**

**26/11/2018**

Coram:

Before Hon. Mwangi Njoroge, Judge

Court Assistant - Picoty

Mr. Kibii holding brief for Ngeywa for plaintiff

N/A for the defendants

**COURT**

Judgment read in open court.

**MWANGI NJOROGE**

**JUDGE**

**26/11/2018**