



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 343 OF 2017

OLOIRESHA OLE DERE.....PLAINTIFF

-VERSUS-

KOILEKEN OLE TEYIAA & 3 OTHERS.....DEFENDANTS/

JUDGEMENT

By a Plaint dated 3rd April, 2017 the Plaintiff herein commenced the instant suit seeking for orders that the Defendants be restrained from entering into, cultivating, instructing or interfering in any way whatsoever with Land Parcel No. Tikako Adjudication Section and that the 3rd Respondent be ordered to delete the 1st Defendant's name from the adjudication register as being the owner of land parcel No. 528 and in Lieu thereof the Plaintiff be registered as the owner of Land Parcel No. 528 Tikako Adjudication Section and costs of the suit.

It is the Plaintiff's case that he has been allocated and has been on Land Parcel No. 528 Tikako Adjudication Section and in occupation of the suit land. However, the 3rd Respondent erroneously registered the 1st Defendant as the owner of the suit land and he avers that the 1st Defendant has no claim over the suit land and hence the 2nd and 3rd defendant be compelled to correct the error on the register.

Even though the Defendants were served with summons, the 3rd and 4th defendants who entered appearance but never filed any defence to the Plaintiff.

On the 21st day of November, 2018 when the court satisfied itself that the Defendants having been served failed to enter appearance nor file a defence, ordered that the suit do proceed for hearing.

The Plaintiff testified as PW1 and in his evidence in chief stated that he was allocated the suit land about 30years ago by the Land Adjudication Committee and he has been in occupation of the suit land ever since. However, the 1st Defendant who owns another parcel of land has been interfering with his land claiming it after the Land Adjudication Officer erroneously registered him as the owner of the suit land.

The Plaintiff stated that he has obtained the consent of the Land Adjudication Officer to commence the instant suit and he produced a letter dated 21st April, 2016 in support of the same. It is the Plaintiff's prayer that the 1st Defendant be restrained from interfering with his occupation of land and the 2nd and 3rd defendant be ordered to delete the name of the 1st Defendant from the Adjudication register.

I have heard the testimony of the Plaintiff and seen the evidence he produced. The Defendants having failed to enter any defence to the Plaintiff's claims makes his evidence unchallenged and uncontroverted and the Plaintiff having obtained the consent of the land Adjudication Officer to file the instant suit, I have no reasons to doubt his evidence.

In view of the above, I enter judgement for the Plaintiff against the Defendant in the following terms:-

1. That a permanent injunction do issue restraining the 1st Defendant from entering, cultivating and constructing or in any manner interfering with the Plaintiff's occupation of Land Parcel No. 528 Tikako Adjudication Section.
2. That an order do hereby issue directing the 3rd Respondent to delete the name of the 1st Defendant as the registered owner of Land Parcel No. 528 Tikako Adjudication Section and in his place enter the name of the Plaintiff within 60 days of this judgement.
3. That the costs of the suit is to the plaintiff.

Orders accordingly.

DATED, SIGNED and DELIVERED in open court at NAROK on this 2nd day of November, 2018.

Mohamed N. Kullow

Judge

2/11/18

In the presence of:

N/A for the parties and their advocates.

CA:Kimiriny