



REPUBLIC OF KENYA

IN THE ENVIROPNMENT AND LAND COURT AT ELDORET

E&L NO. 119 OF 2015

EDWARD KIMUTAI KIPTUM1ST DEFENDANT/APPLICANT

SAMMY RUTO SILAMOI.....2ND DEFENDANT/PLAINTIFF

RICHARD CHESIRE KORE.....3RD DEFENDANT/PLAINTIFF

VERSUS

CHARLES EREKAI.....1ST DEFENDANT

LOSIKE LOPEYOK.....2ND DEFENDANT

JAMES NAKOEU.....3RD DEFENDANT

JAMES WAFULA.....4TH DEFENDANT

EPUYO EMAUMAU.....5TH DEFENDANT

MRS. KIPCHUMBA.....6TH DEFENDANT

JOSPHINE NAMONI.....7TH DEFENDANT

VINCENT NDEGE.....8TH DEFENDANT

LOCHIO CHAKAMAIOI.....9TH DEFENDANT

DAVID LAKAMOI.....10TH DEFENDANT

JAMES TUKEU.....11TH DEFENDANT

DAVID AMOCHONG.....12TH DEFENDANT

TULA SOKOMO.....13TH DEFENDANT

JUDGMENT:

The Plaintiffs state that at all material times to this suit the plaintiffs jointly and severally are legal owners of parcels of land L.R NO's 934,295.154` and 1546 within Milimani settlement scheme in Trans-Nzoia

County. The Plaintiffs aver that the defendants have been on several occasions jointly and severally claiming and/or trespassing into, their parcels of land without any consent. The Plaintiffs have on several occasions been warning the defendants not to interfere with their parcels of land but the defendants have been adamantly ignoring the same necessitating the filing of this suit. The plaintiffs' claims against the defendants jointly and severally is for an order of permanent injunction restraining the defendants by themselves, their representatives, servants and/or agents from claiming, trespassing, occupying and/or in any other way interfering with the Plaintiffs parcels of lands No's 934,295, 1541 and 1546 within Milimani settlement scheme trans-Nzoia County.

The plaintiffs further aver that they have never at any one time authorized and/or permitted the defendants to deal with the suit parcels in whatever manner and that there is no other suit pending and there have been no other previous proceedings in any court between the plaintiffs and the defendants on the same parcels of land. Demands and notices of intention to sue have been issued to the defendants and have ignored the same necessitating into the filing of this suit. This honorable court has jurisdiction to hear and determine this suit. They pray for judgment against the defendant jointly and severally for an order of permanent injunction restraining the defendants by themselves, their representatives, servants and/or agents from claiming, trespassing, occupying and/or in any other way interfering with the plaintiffs' parcels of land NO's. 934, 295,1541 and 1546 within Milimani settlement scheme, Tran-Nzoia County. Costs of this suit.

1st Plaintiff's Edward Kimutai Kiptum a policeman by profession in the Criminal Investigation Department states that he is the only legal owner of parcels of land No. 934, 295 and 1546 having legally purchased the same. That the defendants have on several occasions been encroaching into his aforesaid parcels of land without any color of right and that he has been having several meetings with the village elders, leaders, area chief together with the local community trying to settle this matter amicably but in vain. That on 18.2.2015, he wrote a demand letter to the defendants but have adamantly refused/neglected necessitating into the filing of this suit. That he would like this Honourable court to assist him evict and/or permanently restrain all the defendants jointly and severally by way of injunction to avoid any further trespass, occupation, claim and/or any interference in his parcels of land. That he also need to be paid for costs, interests and any other relief this Honourable court may deem fit to grant. That he stands to suffer irreparable loss and damage if an order is not issued against the defendants. He produced the letters of offer from the director of land adjudication and settlement and payment receipts in respect of plot nos 1546, 29 and 295.

2ND Plaintiff's Sammy Ruto Silamoj states that he is one of the legal owners of parcel of land No. 1541 having legally purchased the same. That the defendants have on several occasions been encroaching into his aforesaid parcel of land without any colour of right. That he has been having several meetings with the village elders, leaders, area chief together with the local community trying to settle this matter amicably but in vain. That he would like this Honourable court to assist him evict and/or permanently restrain all the defendants jointly and severally by way of injunction to avoid any further trespass, occupation, claim and/or any other reference in his parcels of land. That he also need to be paid for costs, interests and any other relief this honourable court may deem fit to grant. That he stands to suffer an irreparable loss and damage if an order is not issued against the defendants. That it is his humble submissions that the defendants be removed or forced to vacate the said parcel and be allowed to have quiet possession of his legally acquired parcels of land. He produced the letters of offer from the director of land adjudication and settlement and payment receipts in respect of plot no's 1541, the receipts and the title deed.

3RD Plaintiff's Richard Chesire Kore states that he is one of the legal owners of parcel of land No. 295 having legally purchased the same. That the defendants have on several occasions been encroaching into his aforesaid parcel of land without any color of right. That he has been having several meetings with the village elders, leaders, area chief together with the local community trying to settle this matter amicably but in vain. That on 18.2.2015, he wrote a demand letter to the defendants but have adamantly refused/neglected necessitating into the filing of this suit. That he would like this Honourable court to assist him evict and/or permanently restrain all the defendants jointly and severally by way of injunction to avoid any further trespass, occupation, claim and/or any other reference in his parcel of land. That he also need to be paid for costs, interests and any other relief this honourable court may deem fit to grant.

That he stands to suffer an irreparable loss and damage if an order is not issued against the defendants. That it is his humble submissions that the defendants be removed or forced to vacate the said parcel and be allowed to have quiet possession of his legally acquired parcels of land.

I have considered the pleadings, evidence on record and do find that the Plaintiffs have proved a balance of probabilities that they jointly and severally are legal owners of parcels of land L.R NO's 934,295.154` and 1546 within Milimani settlement scheme in Trans-Nzoia County and therefore entitled to the prayers sought and do grant judgment against the defendant jointly and severally for an order of permanent injunction restraining the defendants by themselves, their representatives, servants and/or agents from claiming, trespassing, occupying and/or in any other way interfering with the plaintiffs' parcels of land NO's. 934, 295,1541 and 1546 within Milimani settlement scheme, Tran-Nzoia County. Costs of the suit to the Plaintiffs against the defendants. Orders accordingly.

DATED AND DELIVERED AT ELDORET THIS 3RD DAY OF FEBRUARY 2017

A.OMBWAYO

JUDGE