



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO 237 OF 2017

SILVESTER NJUE NJAGI.....PLAINTIFF

VERSUS

GEORGE KINYUA.....DEFENDANT

RULING

1. By his letter dated 25th May, 2017 but strangely received by the registry on 24th May, 2017, one day before it was written, the plaintiff requests the court to enter an interlocutory judgment against the defendant and thereafter set down the case for formal proof proceedings.

2. The plaintiff's plaint dated 2nd May, 2017 prays for judgment against the defendant for:

a. The defendant to **transfer 0.051 Ha** to the plaintiff and in default the Deputy Registrar Chuka High Court be authorized to sign the relevant documents to effect the transfer of the suit land to the plaintiff.

b. The court do order the caution lodged against **LR.NO. KARINGANI/NDAGANI/4725** be removed/lifted.

c. Costs of this application be provided for.

3. Order 10 rule 6 of the Civil Procedure Rules governs entry of interlocutory Judgments by the court. It reads as follows:-

“Where the plaint is drawn with a claim for pecuniary damages only or for detention of goods with or without a claim for pecuniary damages, and any defendant fails to appear, the court shall, on request in Form 13 of Appendix A, enter interlocutory judgment against such defendant, and the plaintiff shall set down the suit for assessment by the court of the damages or value of the goods and damages as the case may be.”

4. It is clear that the plaintiff's claim as framed in the plaint is not a claim for pecuniary damages. Therefore, no interlocutory judgment can be entered in favour of the plaintiff against the defendant.

5. In the circumstances, the plaintiff's prayer for an interlocutory judgment to be entered against the defendant is rejected.

6. No costs are awarded.

7. It is so ordered.

Delivered in open court at Chuka this 20th day of June, 2017

in the presence of:

CA: Ndegwa

Silvester Njue Njagi - plaintiff

P. M. NJOROGE

JUDGE