



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E & L CASE NO. 41 OF 2013

JOSEPH KIBIWOT CHESIGOT.....PLAINTIFF

VERSUS

DANIEL TARUS NGAILE.....1ST DEFENDANT

DICKSON KIPKOSGEI LOIMAN.....2ND DEFENDANT

LOIMAN KANDA.....3RD DEFENDANT

KIBIWOT CHEBOI.....4TH DEFENDANT

WILLIAM KIPROP YEGO.....5TH DEFENDANT

PIUS CHEBET CHEBOI CHESIR.....6TH DEFENDANT

ELIAS KIPKORIR NEKO.....7TH DEFENDANT

SAMUEL KIPKOSGEI YEGO.....8TH DEFENDANT

VICTOR KIPROTICH KOMEN.....9TH DEFENDANT

WILLIAM BIWOT.....10TH DEFENDANT

JUDGMENT

Joseph Kibiwot Chesigot, (hereinafter referred to as the defendant) has come to court against **Daniel Tarus Ngaile, Dickson Kipkosgei Loiman, Loiman Kanda, Kibiwot Cheboi, William Kiprop Yego, Pius Chebet Cheboi Chesir, Elias Kipkorir Neko, Samuel Kipkosgei Yego, Victor Kiprotich Komen and William Kibiwot** claiming that in the letters dated 24.4.2012 and 26.11.2013, the plaintiff issued a notice to the defendants jointly and severally to unconditionally vacate, stop using and allow the plaintiff to repossess the unregistered piece of land at Cheririshiot in Soko Bora Trading Centre and Mongong'oo Moyos in Koibiriri location within Tot, Marakwet District in vain. And that the plaintiff's crops including 35 mango trees, green grams, cassavas and groundnuts worth at least Kshs. 20,000/= were destroyed or damaged by the 9th and 10th defendants and their allies including Kachesir clan.

That the plaintiff is the purchaser of the suit lands the subject matter of the dispute between the plaintiff and the defendants. The defendants replied to the plaintiff's notice by the letter dated 28.4.2012 but failed, ignored, refused or neglected to comply with the plaintiff's demands contained in the Demand

Notice letter dated 24.4.2012 and/or who did not reply to the plaintiff's notice dated 26.11.2013.

That in a letter dated 2.10.2012 and 26.11.2013, the plaintiff issued another notice in which there is the unregistered land at Mongong'oo Moyos belonging to the plaintiff which the defendants jointly and severally have started trespassing upon, interfering and dealing in whatever manner with the same together with the developments thereon including mango trees, cassava crop, green grams and groundnuts worth at least Kshs.20,000 which the defendants by themselves, their agents, or servants have cut down, damaged or destroyed against the will of the plaintiff who has suffered loss and damage whose damages on assessment by and expert the defendants jointly and severally shall pay and whose particulars shall be stated once the assessment is delivered by the expert. That the plaintiff purchased the suit lands from parties' other than the defendants jointly and severally on 30.3.1998. The plaintiff had no dispute with either the sellers or anybody else. And that the plaintiff is privy to defendants' efforts to pay money to the plaintiff's sellers/vendors and stage a war against the plaintiff in respect of the parcels of land at Cheririshiot and Mongong'oo Moyos which belong to the plaintiff.

The plaintiff prays for judgment for an order of declaration that the parcels of land at Cheririshiot and Mongong'oo Moyos belong to and are the property of the plaintiff. An order of permanent injunction to restrain the defendants jointly and severally by themselves, their agents or servants or whoever on their behalf from trespassing upon, using, interfering and dealing in whatever manner with the plaintiff's Cheririshiot and Mongong'oo Moyos lands. Damages of Kshs. 20,000/=. Costs and interests.

The defendants were served but failed to enter appearance and/or file defence. The plaintiff testified that he bought Mongong'oo Moyos land on 10.6.1984. In 2010, Kachesir told Kachesir children to slash 35 mango trees, cassava, green grains and groundnut crops worth at least Kshs. 12,000/=. The defendants have trespassed in the land and therefore he prays for their eviction.

I have considered the evidence on record and do find that the plaintiff has not identified the land in dispute as required by law. He refers to it as Mongong'oo Moyos land without referring to the land parcel number. The land in dispute appears unadjudicated and therefore I am unable to ascertain the existence of the same. I do find that the plaintiff has not discharged his burden of proof. The suit is dismissed with no order as to costs.

DATED AND DELIVERED AT ELDORET THIS 17TH DAY OF AUGUST, 2017.

A. OMBWAYO

JUDGE