



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT & LAND COURT OF KENYA**

**AT MILIMANI**

**ELC CASE NO. 82 OF 2016**

**RICHARD GITAU MWAURA.....PLAINTIFF**

**=VERSUS=**

**NATHAN MANYALI.....DEFENDANT**

**JUDGEMENT**

**INTRODUCTION.**

1. The Plaintiff filed this suit against the Defendant claiming the following reliefs:-

*a. An order of eviction directed at the defendant, his agents, servants and or any other person whomsoever in possession of the plot known as plot No.10 measuring 25x10 situate at Omega Extension Project in Njiru, within Nairobi City County.*

*b. General damages for trespass*

*c. Costs of this suit*

*d. Interest on (b) and (c) above at court rates.*

*e. Any other relief that this Honourable Court may deem just to grant.*

2. The defendant who was duly served with summons to enter appearance neither entered appearance nor filled defence. The hearing therefore proceeded by way of formal proof.

**PLAINTIFF'S CASE.**

3. The Plaintiff was a treasurer of Omega Extension Project, a community based organization registered under the Ministry of Gender, Children, and Social Development. The Plaintiff was allocated Plot No. 10 comprised in LR No. 15167/9/10/11/12 in Njiru area of Nairobi. The plaintiff developed cancer as a result of which he was seriously taken ill. While in that condition, his fellow officials made him sign a document which they duped him that it was an assurance that even if he died, his plot will remain safe.

4. The plaintiff went to hospital where he received treatment and became stable. When he was discharged, he went to his plot where he found an unknown person who had started constructing on the same. He was threatened by those who were constructing on the plot. He went to his advocate who wrote a demand letter to the defendant who was behind the construction on the plot. The defendant's advocate responded

and said that the plaintiff had sold his plot to the defendant through an agent called Moses Mburu Njuguna.

5. The plaintiff denies the defendant's allegation that he sold his plot to the defendant through Moses Mburu Njuguna whom he says he does not know. He went and reported the threats to Obama Police Station.

### **ANALYSIS**

6. I have gone through the documents produced by the Plaintiff in support of his case. He was indeed treasurer of Omega Extension Project, a registered community based organization. He produced a plot formalization card from Nairobi City County showing that he was allocated plot No. 10. He also produced a letter from Kenyatta National Hospital showing that he was being treated for Cancer at the facility. The Plaintiff also produced a demand letter dated 1<sup>st</sup> October 2015 addressed to the defendant and a response from the defendant's advocates dated 19<sup>th</sup> October 2015.

7. The defendant claims in the response to the demand that the plaintiff sold his plot to him through one Moses Mburu Njuguna. That the last payment was made on 26<sup>th</sup> July 2013, before the Chief Njiru Location and that the defendant was forced to pay an additional 10,000/= towards the purchase price.

### **CONCLUSION.**

8. The defendant had the opportunity to prove his allegations contained in the response to the demand letter but he did not by failing to enter appearance and file defence. In the absence of any evidence to controvert the evidence adduced by the Plaintiff, I find that the Plaintiff has proved his case against the defendant on a balance of probabilities. I therefore enter Judgement for the Plaintiff against the defendant as follows:-

***a. An order of eviction is given directed at the defendant, his agents, servants or any person acting on his behalf from plot known as plot No.10 at Omega Extension Project in Njiru within the Nairobi City County.***

***b. Costs of this suit.***

***c. Interest on costs at court rates.***

Dated, Signed and delivered at **Nairobi** on this **29<sup>th</sup>** day of **November 2017**.

**E.O.OBAGA**

**JUDGE**

In the presence of :-

Mr Wahome for Mr Bundi for Plaintiff

Court Assistant: Hilda

**E.O.OBAGA**

**JUDGE**