



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 95 OF 2017

JOSEPH GIVAN MWANGI KIMANI

(Suing as the Administrator of the Estate of

MARY NJOKI KIMANI -deceased).....PLAINTIFF

VERSUS

SIMON WANYIKA.....DEFENDANT

JUDGMENT

1. The plaintiff filed this suit on 22/5/2017. He filed an amended plaint on 19/6/2017. In the amended plaint the plaintiff sought an order of declaration, declaring that the parcel of land known as **Trans-Nzoia/kapkoi/263** solely belongs to the plaintiff and the defendant has no right whatsoever over the same, an order of eviction against the defendant and those claiming under him, costs of the suit and interest.

2. It is the plaintiff's case that he is the legal administrator of the Estate of **Mary Njoki Kimani** who was at all material times the proprietor and beneficial owner of the suitland. It is the plaintiff's case that he acquired the suitland in 1974 and registered it in his late mother's name. The plaintiff pleads that he entrusted the land to his mother to act as caretaker, and to live on and depend on it for her livelihood.

3. Following the demise of the plaintiff's mother the plaintiff became registered as the proprietor of the suit premises. The plaintiff's claim against the defendant is based on acts of trespass which the defendant has perpetrated in respect of the suitland. It is apparent that the said trespass commenced in the year 2013. The plaintiff's mother died in that year. The plaintiff has produced a Certificate of Confirmation of Grant dated 29/9/2016. In the schedule thereto the plaintiff is designated to be the transferee of Title No. Trans-Nzoia/Kapkoi/263 measuring 2.40 Ha. This is the description of the suitland herein. The plaintiff has also produced the original title to Trans-Nzoia/Kapkoi/263. It bears his name.

4. Going by the above it is clear that the plaintiff, being the registered proprietor of the suitland, has his rights and interests protected by the provisions of Section 24 and 25 of the Land Registration Act. For that reason I find that the plaintiff has proved his case on a balance of probabilities against the defendant. I therefore enter judgment in favour of the plaintiff against the defendant in terms of prayers Nos. (a) (bb) and (d) of the amended plaint dated 16/6/2017. The claim for mesne profits has not been proved and it is hereby declined.

It is so ordered.

Dated, signed and delivered at Kitale on this **20th** day of **December, 2017**.

MWANGI NJOROGI

JUDGE

20/12/2017

Before - Mwangi Njoroge -Judge

Court Assistant - Isabellah

Plaintiff in persons

N/A for defendant

COURT

Judgment read in open court.

MWANGI NJOROGI

JUDGE

20/12/2017