



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC CASE NO. 81 OF 2017

MOHAMED HASSAN GALLED.....PLAINTIFF

VERSUS

HASSAN IBRAHIM MOHAMED.....DEFENDANT

J U D G M E N T

1. The subject matter herein is situated in Mandera County. Plaintiff's claim is that he is the legal owner of the 30 hectares of land Parcel NO. 90 in Wangai Dhan Location, having acquired the same on 18.08.2000 from the County Council of Mandera.

2. Plaintiff further claims that Defendant trespassed on this land and started fencing it and that is why Plaintiff is praying for a permanent **“order of Injunction restraining the Defendant by him, his employees servants, agents or anybody else acting at the Defendant's direction, employment, contract or in any manner whatsoever from forever interfering with the Plaintiff's ownership, user, occupation and enjoyment of land/farm No. 90 in Wangai Dhan Location of Mandera West Sub County measuring 30 hectares in size”**.

3. Defendant was served with summons to enter appearance and the Plaintiff but failed to enter appearance or file a defence. The affidavit of service to that effect was filed on 06:05:17. Defendant was also served with a hearing notice for the date of 06.11.17 when matter proceeded but again, he failed to turn up.

4. Plaintiff's case is that he had been farming on the suit land for the last 30 years when he was issued with an allotment letter by the Municipal Council of Mandere on 18:08:200. On 10:08:13 he was issued with a letter to confirm that he was the owner of the land and on 14:09:16, he was issued with a Certificate of land ownership by the Mandera County Government.

5. Plaintiff further state that he fears the defendant is out to grab his land.

6. In support of his case, Plaintiff produced the following documents as his exhibits:-

- 1) Certificate of Land ownership issued by Mandera County Government dated 14/09/2016
- 2) Letter of allotment dated 18th August, 2000 issued by Mandera County Council.
- 3) Farm/Water pan ownership letter dated 10th August, 2013 by Mandera County Government.
- 4) Confirmation of farm ownership by Mandera County Government dated 08:01:2015.

5) Complain letter addressed to Chief Wangai dha against the Defendant by the Plaintiff.

6) Complaint letter addressed to Sub County land administration against the defendant by the plaintiff.

7. I find that the documents availed by the Plaintiff do indicate that Plaintiff is the owner of the land in question. In particular, I find that the letter of allotment of 18:08:00 indicated that Plaintiff was allotted the farm No. 90 which is 30 hectares and the conditions set out therein were that the land was for farming and Agriculture.

8. I do have an issue with the document produced as a certificate of land ownership as it doesn't indicate under what law the Leasehold interest is anchored on. Nevertheless, the allotment letter and the rest of the documents sufficiently confirm that Plaintiff is the owner of the land.

9. Plaintiff's claim is allowed.

1. A permanent order of Injunction is hereby issued restraining the Defendant by him, his employees servants, agents or anybody else acting at the Defendant's direction, employment, contract or in any manner whatsoever from forever interfering with the Plaintiff's ownership, user, occupation and enjoyment of land/farm No. 90 in Wangai Dhan Location of Mandera West Sub County measuring 30 hectares in size".

2. Plaintiff is awarded costs of the suit.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 13th DAY OF DECEMBER, 2017 IN THE PRESENCE OF:-

Court Clerk: Janet

Nyenyire for Plaintiff Present

Defendant in person absent

HON. L. N. MBUGUA

ELC JUDGE