



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

**AT MALINDI**

**ELC NO.139 OF 2015**

**1. MOHAMED ABDALLA MOHAMED**

**2. YATHRIBA KHAMIS RASHID SHIKELY**

**3. NAHYA ABDALLAH MOHAMED**

**4. NASREEN ABDALLAH**

**5. NOOR ABDALLAH**

**6. MAJID ABDALLAH**

**7. MOHSIN ABDALLAH**

**8. FATMA ABDALLAH**

**9. NAIMA ABDALLAH**

**10. MOHAMMED ABDALLAH.....PLAINTIFFS**

**=VERSUS=**

**1. KALAMA RIMBA GONA**

**2. KAJOJI RIMBA GONA**

**3. CHARO RIMBA GONA**

**4. KEA RIMBA GONA.....DEFENDANTS**

**J U D G M E N T**

1. The Plaintiffs have averred in their Complaint dated 10<sup>th</sup> August, 2015 that they are the registered proprietors of a piece of land known as subdivision number 783 (Original number 284/57) Section III Mainland North; that the Defendants have trespassed on the suit property and that the said acts of trespass by the Defendants is continuing.
2. In the Complaint, the Plaintiffs have prayed for an order of prohibitory and mandatory injunction.
3. Although the Defendants were served with the Summons to Enter Appearance and the hearing

notice, they neither entered appearance nor filed a Defence. The matter proceed for formal proof on 16<sup>th</sup> May, 2016.

4. The Plaintiff, PW1, informed the court that he had been authorised by the 2<sup>nd</sup> to 10<sup>th</sup> Plaintiffs to testify on their behalf.
5. PW1 informed the court that they were registered as the proprietors of the suit by way of an “assent” on 6<sup>th</sup> November 2013.
6. The evidence before me shows that initially, the suit property was registered in the name of the Plaintiffs' father, Abdalla Mohamed Abdulla, before the same was transferred to the Plaintiffs upon the death of their father.
7. In view of the fact that the suit property is registered in favour of the Plaintiffs, I find and hold that the Plaintiffs have proved that the Defendants have trespassed on their land.
8. In the circumstances, I allow the Plaintiffs' Plaint dated 10<sup>th</sup> August, 2015 in the following terms:

**(a) A permanent injunction be and is hereby issued restraining the Defendants either by themselves, their agents or servants or otherwise howsoever from erecting any structures or carrying out any construction of any nature or otherwise howsoever entering upon or dealing with the suit premises known as subdivision number 783 (Original number 284/57) Section III Mainland North.**

**(b) A mandatory injunction be and is hereby issued compelling the Defendants to demolish and remove any structures of any nature erected by them on the suit premises and to vacate the suit premises.**

**(c) The Defendants to pay the Plaintiffs the costs of the suit.**

Dated, signed and delivered in Malindi this 20<sup>th</sup> day of May, 2016.

**O. A. Angote**

**Judge**