



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MOMBASA

ELC CIVIL CASE NO. 296 OF 2012

LESH LA INVESTMENTS LIMITED.....PLAINTIFF

=VERSUS=

HALIMA HASSN & 106 OTHERS.....DEFENDANTS

J U D G M E N T

1. The Plaintiff has averred in the Plaint dated 11th December, 2012 that on diverse dates between the year 2007 and 2012, the Defendants entered and trespassed on L.R NO. MN/V/1712 (the suit property).
2. The Plaintiff is seeking for an order of vacant possession and for the demolition of the structures that are standing on the suit property.
3. Although the Defendants were served with the Summons to Enter Appearance and the Plaint by way of substituted service in the Standard Newspaper of 23rd July, 2013, they neither entered appearance nor filed a Defence.
4. The suit proceeded for formal proof on 21st March, 2016.
5. The Plaintiff's director, PW1, informed the court that the Plaintiff is the registered proprietor of the suit property; that the suit property is within an industrial zone and that between the year 2007 until the year 2012, the Defendants invaded the suit property and constructed temporary structures thereon.
6. PW1 produced in evidence the grant that was registered in its favour in respect to L.R.No. MN/V/1722 on 20th December, 1996.
7. The conditions in the grant shows that the land and the buildings are to be used for "inoffensive light industrial purpose with ancillary offices and stores."
8. PW1 also produced an official search which shows that plot number MN/V/1722 was still registered in its favour as at 24th July, 2013.
9. Having considered the evidence before me, I am satisfied that the Plaintiff is the registered proprietor of L.R. No. MN/V/1722. This evidence was not controverted and the legality of the Plaintiff's Grant was not challenged by the Defendants.
10. I am therefore satisfied that the Plaintiff has proved its case on a balance of probabilities.
11. For those reasons, I allow the Plaint dated 11th December, 2012 in the following terms:-

(a) An order of vacant possession and demolition of structures on L.R. No. MN/V/1722 be and is hereby issued.

(b) An order of permanent injunction be and is hereby issued restraining the Defendants, whether by themselves, their servants, agents, employees or otherwise from entering upon, or

remaining in possession of L.R.No. MN/V/1722 or putting up structures thereon or in any manner dealing with the said land.

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

Dated, signed and delivered in Malindi this **1st** day of **July**, 2016.

O. A. Angote

Judge