



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC CIVIL CASE NO. 101 OF 2014

SOLOMON G. NGWATU.....PLAINTIFF

=VERSUS=

TINGA DUME TSUMA.....DEFENDANT

J U D G M E N T

1. In his Complaint dated 6th June, 2014, the Plaintiff is seeking for a permanent injunction directed against the Defendant or his servants from trespassing on land known as portion number 6307 Malindi (the suit property) and for general damages for trespass.
2. The Plaintiff has averred in the Complaint that at all material times, he was the registered proprietor of the suit property; that on or about the month of March, 2012, the Defendant trespassed on the suit property and that in a gesture of good will, he agreed and indeed did pay the Defendant the sum of Kshs.20,000 and allowed the Defendant to remain on the land for three months.
3. However, according to the Complaint, the Defendant has refused to vacate the suit property.
4. Although the Defendant was served, he neither entered appearance nor filed a Defence. The matter proceeded for formal proof on 28th April, 2016.
5. The Plaintiff, PW1, informed the court that he is the registered proprietor of the suit property; that the Defendant invaded the suit property in March 2012 and that the Defendant acknowledged receipt of Kshs.20,000 and also acknowledged that he had trespassed on the suit property.
6. The Plaintiff produced in evidence the Certificate of Title for portion number 6307.
7. The Certificate of Title shows that the suit property was transferred to the Plaintiff by the administrators of the Estate of the late Walter Obiero Sionga on 27th June, 2013.
8. The Plaintiff also produced a Certificate of Postal search as at 14th April, 2014. The Certificate of Postal Search shows that the Plaintiff is the registered proprietor of the suit property.
9. In view of the Certificate of Title and the official search that were produced in court, I am satisfied that the Plaintiff has proved that he is the registered proprietor of the suit property and should be allowed to occupy and possess it quietly.

10. For those reasons, I allow the Plaintiff's Plaint dated 6th June, 2014 in the following terms:

(a) A permanent injunction be and is hereby issued against the Defendant, his heirs, his servants, agents or assigns from in any way trespassing upon the Plaintiff's property known as portion number 6307 (original number 5645/29) Malindi.

(b) The Defendant to pay the costs of the suit.

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

O. A. Angote

Judge