



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT KITALE
LAND CASE NO. 100 of 2015

MUSA TAPEM.....PLAINTIFF

VERSUS

SAMSON ARIWORENG.....1ST DEFENDANT

CHEPOSIRKOI ARIWORENG.....2ND DEFENDANT

REUBEN ARIWORENG.....3RD DEFENDANT

MUSA ARIWORENG.....4TH DEFENDANT

CHEPOGHE ARIWORENG.....5TH DEFENDANT

CHARLES ARIWORENG.....6TH DEFENDANT

J U D G E M E N T

INTRODUCTION

1. The plaintiff is the administrator of the estate of his late father **Danger Tabim** (deceased) who was the registered owner of **LR. No. West Pokot/Chepareria/461** (suitland). The plaintiff brought this suit against the defendants seeking orders of eviction and permanent injunction.

2. The defendants were duly served with summons to enter appearance and file defence. They all entered appearance through the firm of Katina & Co. Advocates but they did not file defence. The case was set down for formal proof. A hearing notice was duly served upon the firm of Katina & Co. Advocates who did not attend court for hearing. Hearing therefore proceeded in their absence.

PLAINTIFF'S CASE

3. The plaintiff testified that he is the administrator of the estate of his late father **Danger Tabim**. Prior to the demise of the deceased, he had a dispute with **Ariworeng Ruatanyang** who is now deceased. The defendants are beneficiaries of the late Ariworeng Ruatanyang. The dispute between the deceased and the late Ariworeng Ruatanyang was arbitrated twice by the Land Committee of Chepareria Adjudication Section. On both occasions, the committee ruled that the suitland belonged to the deceased.

4. The deceased went ahead and processed title to the suitland. The defendants have refused to move out

of the suitland prompting the plaintiff to file this suit.

ANALYSIS OF EVIDENCE

5. The plaintiff produced a copy of certificate of official search [Exhibit 2]. According to this search, the deceased was registered as owner of the suitland on **1/7/1998**. The plaintiff is the administrator of the estate of the deceased as per the grant produced as Exhibit 1.

6. The dispute over the suitland has been resolved twice in each occasion in favour of the deceased. On **3/8/1982**, the Land Committee of Chepareria Adjudication Section found in favour of the deceased. The proceedings and the committee verdict were produced as Exhibit 3(a). Again on **25/9/1992** an objection was filed by the deceased. The same was heard and determined in favour of the deceased. The proceedings were produced as Exhibit 3(b).

7. A look at the proceedings clearly show that Ariworeng Ruatanyang had his own land at Sook. He came to Chepareria to claim that he had been given land during the process of demarcation. His claim was heard and dismissed. It is therefore clear that his family have no right to remain on the suitland.

DECISION

8. It is clear that the defendants have no business remaining on the suitland. They had no defence to the plaintiff's claim. That is why they entered appearance but did not file a defence. I find that the plaintiff has proved his case on a balance of probabilities. I grant the following reliefs:-

- a. **An order of eviction against the defendants or their agents from LR. No. West Pokot/Chepareria/461.**
- b. **A permanent injunction restraining the defendants and or their agents from interfering in any manner with LR. No. West Pokot/Chepareria/461.**
- c. **Costs and interest to be paid by the defendants jointly and severally.**

Dated, signed and delivered at Kitale on this **26th** day of **September, 2016**.

E. OBAGA

JUDGE

In the presence of Mr. Bororio for Plaintiff.

Court Assistant - Isabellah.

E. OBAGA

JUDGE

26/9/2016