

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC CIVIL CASE NO.125 OF 2015

CHANGAWA SHOMI MWANGANYA.....PLAINTIFF

=VERSUS=

1. MARY KENGO MWELEKA

2. SIDI KATANA KAMBI

3. GEOTHAM NGUI KUMI MUTHURI

4. KAHINDI KATANA KAMBI.....DEFENDANTS

J U D G M E N T

1. In the Complaint dated 27th July, 2015, the Plaintiff averred that he is the brother of the late Mukambe Shomi Mwangaya; that the deceased was the lawful owner of land measuring 200 acres situated in Marafa location and that the deceased had developed the land by growing pineapples, mangoes, cashewnuts and other cereal crops.

2. After the death of her sister, the Plaintiff pleaded that the Defendants trespassed on the suit land.

3. Although the Defendants were served with the Summons to Enter Appearance and the Complaint, they neither entered appearance nor filed a Defence. The matter proceeded for formal proof.

4. The Plaintiff, PW1, informed the court that the suit property was owned by his late sister; that he is the legal administrator to the Estate of his late sister and that when she died, the Defendants, who are a mother and sons, invaded the said land.

5. The Chief of the area, PW2, informed the court that indeed the suit property belonged to the late Mukambe Shomi Mwangaya who lived on the land since 1979 until the year 2000 when she died.

6. It was the evidence of the Chief that the legal heirs to the estate of the late Mukambe Shomi are Chanawa Shomi Mwangaya and Jumwa Shomi.

7. The evidence of PW1 and PW2 that the deceased was the owner of the suit property was uncontroverted.

8. In the circumstances, I find that the Plaintiff has proved his case on a balance of probabilities and I allow the Complaint dated 27th July, 2015 as prayed.

Dated, signed and delivered in Malindi this 4th day of **November**, 2016.

O. A. Angote

Judge

