

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT MALINDI

ELC CIVIL CASE NO. 32 OF 2012

JOHNSON KARISA.....PLAINTIFF

=VERSUS=

1. NZAI KOMBE UNDA

2. KENGA CHENGA KAVIHA.....DEFENDANTS

J U D G M E N T

1. In his Complaint dated 1st October, 2012, the Plaintiff averred that he is the registered proprietor of a parcel of land known as Ngomeni Squatters Settlement/1054 (the suit property); that the Defendants have continued cultivating sand from the suit property and that the Defendants have continued to trespass on the land.

2. The Plaintiff's prayer in the Complaint is for a permanent injunction restraining the Defendants from trespassing, harvesting sand, committing acts of wastages and interfering with the suit property.

3. Although the Defendants were served with the Summons to Enter Appearance, they neither entered appearance nor filed a Defence.

4. The matter proceeded for hearing on 10th October, 2016. The Plaintiff, PW1 Informed the court that he is the registered owner of the suit property and that the Defendants invaded the land and started harvesting sand.

5. The Plaintiff produced in evidence the original Title Deed in respect of the suit property. The said Title Deed shows the Plaintiff as the proprietor of the suit land.

6. In the absence of evidence by the Defendants to rebut the Plaintiff's testimony, I find and hold that the Plaintiff has proved his case on a balance of probabilities.

7. For those reasons. I allow the Plaintiff's Complaint dated 1st October, 2012 as prayed.

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

O. A. Angote

Judge