



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC CIVIL CASE NO.92 OF 2014

JONATHAN KEA JUBA.....PLAINTIFF

=VERSUS=

KENGA KATANA KIRINGA.....DEFENDANT

J U D G M E N T

1. The Plaintiff and the Defendant are brothers. In the Complaint, the Plaintiff has averred that at all material times, he was the registered owner of plot number Vinangoni/Majajani/430 situated at Kauma in Jaribuni within Kilifi County; that he owned the suit property in common and in equal undivided shares with the Defendant and that it is the Defendant who is holding the original Title Deed.
2. The Plaintiff has stated in his Complaint that in May 2013, the Defendant threatened to evict him from the suit property.
3. The Plaintiff is seeking for an order allowing the sub-division of the suit premises into two portions.
4. In his evidence, the Plaintiff, PW1 informed the court that he wants the suit property to be sub-divided into two portions and the said portions to be registered in their respective names.
5. The Plaintiff produced the official search which shows that the suit property measuring 10.91 Ha is registered in his name and in the name of the Defendant.
6. Although the Defendant was served with the Summons to Enter Appearance and Complaint on 21st June 2014, he neither entered appearance nor filed a Defence.
7. The official search produced in evidence shows that the suit property was registered in the name of the Plaintiff and the Defendant on 9th August 2006.
8. In the absence of evidence to the contrary, I find and hold that the suit property was registered in the names of the Plaintiff and the Defendant as tenants in common with undivided equal shares.
9. Consequently, the Plaintiff is entitled to half a share of the suit property.
10. For the foregoing reasons, I allow the Complaint dated 15th May, 2014 in the following terms:
(a) Parcel of land number Vinangoni/Majajani/430 to be sub-divided into two equal shares by

either a government surveyor or a licenced surveyor and each portion to be registered in the name of Jonathan Kea Juba and Kenga Katana Kiringa respectively.

(b) A permanent injunction be and is hereby issued restraining the Defendant from evicting the Plaintiff and or alienating or transferring the suit property.

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

Dated and delivered in Malindi this **10th** day of **July** 2015.

O. A. Angote

Judge