



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC CIVIL CASE NO.111 OF 2010

NICHOLAS KOMBE PEMBE.....PLAINTIFF

=VERSUS=

1. KENGA KOMBE

2. KALESO KOMBE

3. REGISTRAR OF LANDS-KILIFI

4.ATTORNEY GENERAL.....DEFENDANTS

J U D G M E N T

Introduction:

1. On the 20th September 2010, the Plaintiff filed a Plaint in which he averred that at all material times, Pembe Murogo was the registered proprietor of parcel of land known as Kaloleni/Vishakani/538; that Pembe Murogo Kithi died intestate on 17th July 1985 and that him, together with his brother were granted letters of administration in respect to the estate of the late Pembe Murogo Kithi.
2. It is the averment and evidence of the Plaintiff, PW1, that the 1st and 2nd Defendants unlawfully represented themselves as heirs of Pembe Murogo Kithi and fraudulently instituted Land Award Case Number 13 of 1996 which resulted in the sub-division of Kaloleni/Vishakani 538 into plot numbers 876, 877 and 878.
3. It was the evidence of the Plaintiff that although he was in possession of the original title deed for plot number 538, the same was burnt when his advocate's offices were razed by fire. The Plaintiff produced the copy of the title deed as PEXB1.
4. PW1 informed the court that they were never involved in the sub-division of Plot No.538 and he wants the resultant sub-divisions cancelled.
5. Although the Defendants were served with Summons to Enter appearance, they neither entered appearance nor filed a Defence.
6. The evidence by the Plaintiff was not rebutted.
7. In the circumstances, I am satisfied that the Plaintiff has proved his case on a balance of probabilities.
8. For those reasons, I allow the Plaintiff's Plaint dated 20th September 2010 as prayed.

Dated and delivered in Malindi this 3rd day of **July** 2015.

O. A. Angote

Judge