



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT**

**AT KITALE**

**LAND CASE NO. 122 OF 2013**

**CHARLES KHISA NGENGWE**

**GEOFFREY WEKESA**

**GEOFFREY WANJALA**

**(Suing as representatives of Ndelema Self Help Group).....PLAINTIFFS**

**VERSUS**

**SIMON WACHIE**

**CALISTUS NYONGESA**

**GLADYS WAFULA**

**MOSES WAFULA**

**BERNARD MUNIALO**

**JANET MUKOPI**

**TOM WANAMBISI.....DEFENDANTS**

**JUDGEMENT**

**INTRODUCTION**

1. The Plaintiffs are officials of Ndelema Self Help Group. The group was founded for purposes of purchasing land for its members. The group purchased LR NO 8994/11 commonly known as Kaptich Farm on which it has settled its members.

2. The defendants are all former members of the group. The first, second and third plaintiffs are chairman, secretary and treasurer of the group respectively. The plaintiffs filed a suit against the defendants seeking a permanent injunction against the defendants restraining them from interfering with the running of the group and its Land Parcel NO. 8994/11 Kaptich farm. The defendants who were duly served with summons to enter appearance neither entered appearance nor filed defence. The plaintiffs therefore proceeded by way of formal proof.

## **PLAINTIFFS CASE**

3. Charles Khisa Ngengwe the group's chairman testified that the group was formed for purposes of purchasing land for its members. The group purchased LR NO 8994/11 and settled its members. The defendants who are former members invaded the farm and imposed themselves as officials of the group and have since been causing trouble even going to an extent of carrying out criminal activities within the farm such as destroying houses belonging to members. The chairman testified that the defendants never contributed any money towards the purchase of the land and therefore should not interfere with the affairs of the group.

## **ANALYSIS OF EVIDENCE**

4. The evidence adduced by the plaintiffs was not controverted. The chairman of the group produced a certificate of registration for the group exhibit 1. He also produced a notice of motion dated 17/6/2014 which contains a petition the officials filed against the Agricultural Finance Corporation exhibit 2. This petition shows details on how the group acquired the property known as LR NO 8994/11 Kaptich Farm. The defendants who are former members of the group should not be allowed to meddle with the affairs of the group including the land which the group bought for its members.

## **DECISION**

5. I find that the plaintiffs have proved their case against the defendants on a balance of probabilities. The plaintiffs claim is allowed in terms of prayer (a) to (c) of the plaint.

Dated, signed and delivered at Kitale on this 30th day of July, 2014.

**E. OBAGA**

**JUDGE**

**COURT:** Judgement delivered in the absence of Plaintiff's advocate who was aware of today's date.  
Court Clerk – Kassachoon.

**E. OBAGA**

**JUDGE**

**30/07/2014**