



REPUBLIC OF KENYA



**KENYA LAW**  
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**Woche v Gache (Environment and Land Case Civil Suit E001 of 2022)  
[2024] KEELC 3478 (KLR) (29 April 2024) (Judgment)**

Neutral citation: [2024] KEELC 3478 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO  
ENVIRONMENT AND LAND CASE CIVIL SUIT E001 OF 2022**

**PM NJOROGE, J**

**APRIL 29, 2024**

**BETWEEN**

**TIMOTHY WOCHÉ (LEGAL REPRESENTATIVE OF NAOMI SUBO  
STEPHEN ..... APPELLANT**

**AND**

**SOKA GACHE ..... DEFENDANT**

**JUDGMENT**

1. In his plaint dated 10<sup>th</sup> January, 2022 the plaintiff prays for Judgment against the defendant for:
  - a. A declaration that the registration of LR.Marsabit/Jirme/1413 in the name of the defendant was tainted with fraud and thus null and void.
  - b. A cancellation of title deed No. LR.Marsabit/Jirme/1413 and the same do revert to the deceased Naomi Subo Stephen Gache.
2. I am satisfied that despite being served several times, the defendant refused and /or failed to participate in these proceedings. Hence the decision of this court to allow formal proof proceedings take place.
3. On 26/2/2024, the plaintiff told the court that his family had 12 siblings and that he was the eldest son. He asked the court to rely on his witness statement dated 10<sup>th</sup> January, 2022 and to also rely on his documents as listed in his list of documents dated 10<sup>th</sup> January, 2022. He produced the documents as;
  - i. Death Certificate of Naomi Subo Stephen Gache.
  - ii. Letters of Administration for the estate of Naomi Gache.
  - iii. Search Certificate for LR. No. Marsabit/Jirme/525.
  - iv. Search Certificate for LR. No. Marsabit/Jirme/1413.



- v. Green Card for Original Marsabit/Jirme/525.
  - vi. Proceedings in RMCC NO. 2/2019.
  - vii. Order Isiolo Misc. Application No. 001/2021 [E015/2021 Meru]
  - viii. Letter dated 21/8/2008.
  - ix. Letter dated 10/6/2016.
  - x. Letter dated 17/8/2016.
4. A conspectus of his witness statement is that he is the eldest of 12 siblings, namely;
- a. Timothy Woche (himself)
  - b. Dida Gache
  - c. Samson Gache
  - d. Annah Guye Gene
  - e. Killa Gache
  - f. Rebecca Yedo Gache
  - g. John Aila Gache
  - h. Sarah Jama
  - i. Martha Yale
  - j. Andrew Gache
  - k. Soka Gache

The plaintiff says without the existence of any succession proceedings, the defendant has fraudulently hived of 7.84 Hectares of the Original 38.16 Hectares of LR. No. Marsabit/Jirme 525 and had a title issued to himself as LR. Marsabit Jirme/1413. It is because of the fraudulent transfer of part of family land to the defendant that he had filed this suit seeking the orders prayed for in the plaint.

5. The plaintiff prays that he be awarded costs for this suit.
6. I have carefully considered the evidence proffered by the plaintiff in this suit. The defendant despite service several times, has failed and/or refused to defend this suit or to respond in any manner. I do find that, on a balance of probabilities, the plaintiff has to the satisfaction of this court proved his case against the defendant.
7. Consequently, I enter judgment for the plaintiff against the defendant in the following terms;
- a. A declaration is hereby issued that the registration of LR. Marsabit/Jirme/1413 in the name of the defendant, Soka Gache is tainted with fraud and is thus null and void.
  - b. An order is hereby issued to the apposite Land Registrar that the title deed of LR.No. Marsabit/Jirme/1413 be cancelled and the same do revert to the name of the deceased Naomi Subo Stephen Gache.
  - c. Costs shall follow the event and are awarded to the plaintiff.



**DELIVERED IN OPEN COURT AT ISIOLO THIS 29<sup>TH</sup> DAY OF APRIL, 2024 IN THE PRESENCE OF:**

Court assistant: Balozi/Rahma

Miss Nyasani h/b Ondari for the plaintiff.

**HON. JUSTICE P.M NJOROGE**

**JUDGE**

