



**Njogu v Macharia (Environment & Land Case 576 of 2017)  
[2023] KEELC 736 (KLR) (15 February 2023) (Judgment)**

Neutral citation: [2023] KEELC 736 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE 576 OF 2017  
MN GICHERU, J  
FEBRUARY 15, 2023**

**BETWEEN**

**LUCY WAIRIMU NJOGU ..... PLAINTIFF**

**AND**

**AMOS MACHARIA ..... DEFENDANT**

**JUDGMENT**

1. The plaintiff's claim against the defendants is as follows.
  - a. Eviction order against the Defendant from LR Kajiado/Kitengela/33569.
  - b. A permanent injunction against the Defendant restraining him from interfering with the peaceable enjoyment and ownership of the suit property.
  - c. General damages from trespass.
  - d. Mesne profits.
  - e. Costs of this suit and interest thereon.
  - f. Any other relief as the court may deem fit and just to grant.

2. The Plaintiff's case is as follows. She is the registered owner of the suit land which was subdivided from Kajiado/Kitengela/12922 which was owned by Kuiru Mbunyi. Soon after obtaining the title deed for the suit land, the Plaintiff took possession of it and fenced it with barbed wire all round.

In the year 2015, the Defendant invaded the land and occupied it even though he had no documents of ownership. He was supported by Moses Kirruti and his wife Grace Waithira who were together with a hostile mob.



3. In support of her case, the Plaintiff filed a copy of title deed for the suit. It is dated October 26, 2010 and the approximate area of the land is 2.02 hectares.

4. The Defendant through his counsel on record filed a written statement of defence in which he denies that the Plaintiff is the registered owner of the suit land.

The defence which is dated 28/2/2019 contains a counterclaim whereby the Defendant claims to have bought the suit land from Moses Kirruti Lempaso and Grace Waithira Kirruti among other averments.

He filed a written statement dated 28/2/2019 and nothing more.

5. At the trial, only the Plaintiff testified. The Defendant did not attend even though he was accorded every opportunity to testify.

6. On June 23, 2022, I delivered a judgment in ELC Case No 575 of 2017 between *Grace Wangari Bunyi v Moses Kirruti Lempaso and others*. This case is based on the same facts as Case No 575 of 2017. In fact the judgment in that case specifically mentions the suit parcel in this case.

There is no need for me to repeat what I have said in Case No 575/2017 in this case. I order that the judgement in that case applies to this case. In effect, all the prayers in paragraph 1 above are allowed.

It is so ordered.

**DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 15<sup>TH</sup> DAY OF FEBRUARY, 2023.**

**MN GICHERU**

**JUDGE**

