

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IRINGA DISTRICT REGISTRY

AT IRINGA

LAND CASE NO 03 OF 2018

PATRICK MTWEVE PLAINTIFF

VERSUS

1. MADOPE VILLAGE COUNCIL
2. PATRICK MGAYA
3. IBRAHIM MLELWA
4. CHRISTOPHER LORENSI MLELWA
5. STANISLAUS OCTOVIAN MLIGO
6. MOZE BONIFACE MTEWELE
7. PRISCA LOTALIS MLELWA
8. OLICER BONIFACE MTEWELE
9. ERASTO BONIFACE MLELWA
10. GOODLUCKY RAYMUNDI MLELWA
11. LUBERT LOTALIS MLELWA
12. IGLAMS DANIEL MLOWE
13. NOLASCO LORENSI MLELWA

..... DEFENDANTS

CONSENT JUDGMENT

(Made under section 95 and Order VIII Rule 18(3) of the Civil Procedure Code

[CAP. 33 R.E. 2019])

Date of Judgment: 18.08.2022

S.M. KALUNDE, J.:

By a plaint dated 26.02. 2016, PATRICK MTWEVE (hereinafter "the plaintiff") filed a suit against defendants for trespass over a piece of land measuring 150 acres situated as Ligongwi area with Madope Village, Ludewa District, Njombe Region (hereinafter "the disputed land"). The Plaintiff claimed to have acquired the disputed land customarily by way of allocation which was made by the then

ASSISTANT DIVISIONAL EXECUTIVE OFFICER for Mlangali, one BATHROMAYO KAYOMBO in 1952 and by way of purchase from various persons residents of the by then Mlangali village before Madope village was registered.

After acquisition of the suit land the plaintiff cleared the natural forest and introduced mechanized pyrethrum and white cultivation. In addition to that he planted glasses for cattle grazing, waffle trees, pine trees and eucalyptus trees. However, sometimes in the year 2017 the 2nd to 13th defendants trespassed into the suit land claiming that they had been allocated their pieces of land by the 1st defendant. The plaintiff then lodged the present suit. Through the suit the plaintiff is seeking for judgement and decree against the defendants jointly and severally in the following terms:

- (i) A declaration that the Plaintiff is the lawful owner of the disputed land.*
- (ii) A permanent injunction against all Defendants to vacate the disputed land.*
- (iii) An order for the Defendants to pay Tshs 20,000,000/= for destruction of trees.*
- (iv) An order for the Defendants to pay Tshs 30,000,000/= as general damages to Plaintiff for mental torture and inconveniences sustained.*
- (v) An order for the Defendants to pay costs of the suit.*
- (vi) An order for any other reliefs that the honourable Court would deem just and equitable to grant.*

On 18.08.2022, in terms of Order VIII Rule 18(2) of the Civil Procedure Code [CAP. 33 R.E. 2019], parties informed the Court about and furnished a deed of settlement. Now that in terms of Order VIII Rule 18(3) of the CPC the parties are agreeable to a settlement of all of the matters in dispute in the suit and upon filing the deed of settlement herein court on 25.07.2022, the same is hereby adopted and judgment is entered on the terms and conditions agreed therein and reflected hereunder:

1. *That, the 1st Defendant has accepted that it allocated the Plaintiff's land illegally to the 2nd, 3^d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th and 13th Defendants and that the Plaintiff is a legal owner of the disputed land.*
2. *That, the 1st Defendant recognizes that the Plaintiff that he was doing farming activities for a long time before the registration of the village and constructed a rough road from the village to the disputed land.*
3. *That, the Plaintiff's land that has already been allocated to the 2nd, 3^d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th and 13th Defendants shall belong to them and the Plaintiff has no more claims over that land.*
4. *That, the 1st Defendant shall recognize that the land allocated to 9th Defendant who is presumed to be dead to any rightful/legal heir or legal representative of the 9th Defendant.*

5. *That, the piece of land on which the Plaintiffs was doing farming activities shall be under possession of the Plaintiff.*
6. *That, the 1st Defendant shall undertake roofing of the house situated at Igongwi area near to the disputed land and make replacement of door flammers, doors, window flames and shutters which were removed by unknown persons and such roofing and replacement shall be completed not later than 31st October, 2022.*
7. *That, the Plaintiff and the Defendants shall collaborate in various social and economic development activities at the village lever.*
8. *8. That, the Plaintiff shall grant and return part of his arable land adjacent to eucalyptus trees down to the water sources measured to the size of 150 Acres to 1st Defendant and the 1st Defendant shall allocate the said land to the defendants or any other person as it wishes.*
9. *That, the new boundary of the farm of the Plaintiff shall start from the boundary of the two villages; Masimbwe and Madope and the rest of the land back to the local gate made by eucalyptus trees which was of the Plaintiff shall after the signing of this deed be returned to the 1st Defendant.*
10. *That, each party shall bear its own costs of the matter.*
11. *That pursuant to this settlement, the plaintiff relinquishes all claims either monetary or otherwise against the defendants as presented in the plaint.*

12. That, in case of default of any of the terms agreed then either party shall be at liberty to resort to execution against the defaulting party.

Therefore, this Court, in terms of Order VIII Rule 18(3) of the CPC, enters judgment on the terms and conditions as agreed by the parties and quoted verbatim herein.

Order accordingly.

DATED at IRINGA this 18th day of AUGUST, 2022.



A handwritten signature in blue ink, appearing to read "S. M. Kalunde".

S. M. Kalunde

JUDGE