



**In re Estate of Lintari Likirigua (Deceased) (Succession Cause
15 of 2016) [2023] KEHC 454 (KLR) (30 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 454 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 15 OF 2016
EM MURIITHI, J
JANUARY 30, 2023
IN THE MATTER OF THE ESTATE OF LINTARI LIKIRIGUA ALIAS LITARI
RIKIRUGUA (DECEASED)**

BETWEEN

MARGARET NCOORO APPLICANT

AND

EUNICE MUTHONI KAOME 1ST RESPONDENT

REGINA KAOME 2ND RESPONDENT

GRACE KALANGI MÍBERE 3RD RESPONDENT

IBRAHIM NGULA 4TH RESPONDENT

RULING

1. Before the Court on an application by Notice of Motion dated August 3, 2022 seeking orders as follows:
 1. That the application herein be certified urgent and be dealt exparte in the 1st instant.
 2. That the honourable court do issue restraining orders against respondents from interfering with applicant's parcel of land in the deceased estate and those of other beneficiaries in parcel no Ithima/ Antumbui /2942.
 3. That the honourable court be pleased to order the respondents to remove the fence illegally placed in the deceased estate land parcel LR Ithima/Antuambui/2942 dividing the same in six units.



4. That the respondents be ordered to settle in the deceased estate as per the mutation already presented to the District Land Registrar and survey annexed herein.
 5. That the honourable court do issue an order declaring Ibrahim Ngula the 4th respondent is not a beneficiary of deceased estate and he be restrained from interfering with deceased estate whatsoever.
 6. That the honourable court be pleased to declare the following as deceased beneficiaries who are entitled to share his estate as reflected in the mutations and the manner parties are settled in the estate before respondents interfered.
 - a. Margaret Ncooro -daughter.
 - b. Grace Kalangi M'ibere -daughter
 - c. Mwendia Liakiribua (deceased)-Son represented by his children (Rose Mwendia, Kamami Mwendia, and Kamau Mwendia).
 - d. Mutuku Likiribua (deceased daughter represented by his daughter Kagendo Mutuku.
 - e. Kaome Likiribua-(deceased daughter represented by Eunice Kaome, Regina Kaome, Romano Kaome, Simon Kaome, Susan Kaome, Stephen Kaome & Flora Kaome).
 7. OCS Laare Police Station to ensure compliance herein. 8. That the costs be in cause.”
2. The grounds of the application were set out in the application as follows:
1. That on July 21, 2022 the protestors misled court to be issued with an *ex parte* order for security to survey deceased estate yet they were not administrators of the deceased estate.
 2. That the respondents used the said orders and surveyed deceased parcel Ithima/Antuambui/2942 and chased the applicant together with other dependants away from her parcel of land of the estate the applicant has been occupying since their father passed away.
 3. That the respondents threatened and intimidated applicant with arrest who escaped and respondents proceeded to survey applicant parcels and fenced the same off keeping her and other beneficiaries away which they sold to a stranger one Ibrahim Ngula not a beneficiary herein.
 4. That the applicant is the administrator of the deceased estate which she was not even involved but purely respondents and their counsel elected to mislead this court”
3. The application was responded by a Replying Affidavit and a further Replying Affidavit of Grace Kalangi M'ibere respectively sworn on August 26, 2022 and September 5, 2022.
 4. The applicant filed in addition to the Supporting Affidavit of August 3, 2022, a Supplementary Affidavit of August 30, 2022, and both Counsel filed their respective submissions.
 5. There is in place a Confirmed Grant made by the Court (Patrick J. Otieno, J.) by consent of the parties on July 6, 2021 and issued on July 19, 2021 distributing the property in the Estate named in the Schedule as LR Ithima/Antuambui/2360, LR Ithima/Antuambui/2942 and LR Ithima/Antuambui/425 “to share equally among all the beneficiaries”. It is on the strength of the Confirmed Grant that this Court granted the orders of July 15, 2022 upon an application for provision of security dated July 19, 2022, as clearly set out in the said Order “for purposes of providing security during the survey work as necessary to effect the Confirmed Grant.”



6. The subsequent application of August 3, 2022 appears to run counter the Confirmed Grant herein made by the Court on July 6, 2021. Or the two sides are implementing the Confirmed grant differently. It is therefore in the nature of an application for revocation of Confirmed Grant, or an application for implementation of the Grant. The Court does not feel properly served with the evidence on the basis of competing affidavits untested by cross-examination as to be able to make a fair determination according to the justice of the case.
7. The Court shall treat the application dated August 3, 2022 as an application for revocation of Confirmed Grant in the nature of a protest to the distribution of the estate assets and direct that hearing thereof be had by way of oral evidence to be taken before the court on a date to be fixed in consultation with the Counsel for the Parties.
8. In the meantime, the status quo on the suit properties shall be maintained pending the hearing and determination of the application dated August 3, 2022 by way of oral evidence.

Order accordingly.

DATED AND DELIVERED ON THIS 30TH DAY OF JANUARY, 2023.

EDWARD M. MURIITHI

JUDGE

Appearances

Mr. Mutembei, Advocate for the Applicant.

Mr. Omari, Advocate for the Respondents.

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