



REPUBLIC OF KENYA



KENYA LAW
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Gituma (Succession Cause 477 of 2015) [2022] KEHC 3000 (KLR) (30 June 2022) (Ruling)

Neutral citation: [2022] KEHC 3000 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT MERU

SUCCESSION CAUSE 477 OF 2015

EM MURIITHI, J

JUNE 30, 2022

IN THE MATTER OF THE ESTATE OF MWANIRUA KAIGUARA (DECEASED)

IN THE MATTER OF

MARCY MUGURE GITUMA APPLICANT

RULING

1. By application dated 6/9/2019, the applicant seeks an order that the court be pleased to remove the inhibition registered against the land parcel Abothuguchi/Igane/24 on 21/9/1999 to allow distribution of the estate, urging that the inhibition was placed by the court “to prevent any dealings until hearing and determination of this matter.”
2. From the certificate of official search dated 3/9/2019 attached to the application, it is shown that the proprietor section following registration on 2.3.1970 Mwanirua Kaiguara as entry No. 1, is an entry No. 2. “21/9/99 inhibition. No dealings shall be registered until Misc. Application No. 175 of 1999 in the Chief Magistrates’ court at Meru is finalized.
3. Upon request to the Deputy Registrar of the court he produced the court file in CMCC No. 175 of 1999, it was established that by Gazette Notice No. 3900 of 31/3/2017, the then Chief Magistrate Lucy Ambasi gave the three months’ notice of intention to apply to the CJ for leave under Rule 3 to destroy records of civil case at Chief Magistrate court at Meru relating to the period 1967-2004, and that the same were subsequently destroyed and a certificate of destruction dated 15/9/2017 issued under the *Records Disposal Act* Cap 14 by the Chief Magistrate Hannah Ndungu.
4. This court must take it that from proceedings in CMCC Misc Case No. 175 of 1999 on the basis of which the inhibition of 21/9/1999 was registered, was concluded and finalized, hence conclusion in the destruction of records.
5. Indeed, the court by its order of 17/7/2019 confirmed the Grant herein from the distribution of the estate asset subject of the inhibition Abothuguchi/ Igane/24 to Julia Karuru Mwamba 3 acres; Joel Mwebia Murungi 4 acres and the balance to the applicant Marcy Mugure Gituma.



ORDERS

6. The Court consequently grants the application, being satisfied, therefore, that the inhibition dated 21/9/1999 serves no judicial purpose in the circumstances of this case.

DATED AND DELIVERED ON THIS 30TH DAY OF JUNE 2022.

EDWARD M. MURIITHI

JUDGE

APPEARANCES:

Applicant in Person.

