



In re Estate of Daudi Mukolwe (Deceased) (Succession Cause 125 of 1994) [2022] KEHC 11000 (KLR) (30 June 2022) (Ruling)

Neutral citation: [2022] KEHC 11000 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 125 OF 1994**

**PJO OTIENO, J
JUNE 30, 2022**

BETWEEN

FRANCIS SHITENYE 1ST PETITIONER

SUSAN MUKABI 2ND PETITIONER

AND

STANLEY KIDAHA MUKUNZA OBJECTOR

RULING

1. Now that it is apparent that confirmation was indeed effected way back in 2017 but land is yet to be subdivided in accordance with the Certificate of Confirmation of Grant, and it being common ground that there is pending ELC No. 127/2019 (OS) where the title or ownership of the land is in dispute, the court takes the view that the just thing to do is not to purport to hear the objection which is essentially claim to land.
2. The court considers the objection to be outside its jurisdiction and that purporting to hear and determine it shall be an abrogation of jurisdiction. I do find that it doesn't lie here and parties must restrict its determination to the pending O.S. at the Environment and Land Court.
3. However in order that further disputes are not encouraged to crop up, it is directed that the status quo on the ground as of today preserved pending the determination of the O.S.
4. Mention on 8/11/2022 to confirm the progress made at the Environment and Land Court (ELC).

DATED, SIGNED AND DELIVERED IN OPEN COURT THIS 30TH DAY OF JUNE 2022.

PATRICK J. O. OTIENO

JUDGE

In the presence of:



Ms. Kadenyi for the Respondents

Mr. Mulama for the Objector/Applicant

Court Assistant: Kulubi

