

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT SIAYA

CIVIL APPEAL NO. E002 OF 2021

DANIEL DISHON ANYANZWA OLUCHULA APPELLANT

VERSUS

JACKSON OYIENGO AMERERESPONDENT

RULING

1. I have considered the application dated 31st March 2021 filed by Mr. Ooro advocate for the appellant and the response by the respondent. I note that this is a succession matter and the subject matter is land. What the appellant seeks is stay of any transaction on the suit land parcel No. North Gem/Got Regea/276 subject of the succession proceedings and this appeal.
2. I acknowledge the fact that land in this country and Siaya County in [particular is an emotive matter and this can be deduced from the emotions that ran high in court from the Respondent during the hearing of the application subject of this Ruling. However, I am alive to the fact that this court's jurisdiction as far as land matters are concerned is limited by law and the **Constitution at Articles 162(2)(b) and 165(5)(b)**.
3. In addition, this court would not be determining matters of trusteeship or beneficial ownership to land other than as far as entitlement to benefit in succession proceedings is concerned.
4. That being the case, and as allowing any further transfer or subdivision of the land in question while this appeal is pending will render the appeal an academic exercise, I hereby exercise discretion and grant the prayers sought prohibiting the transfer of or further subdivision of land parcel No. North Gem/Got Regea/276 and directing the Land Registrar Siaya County to register an inhibition of the said Title or any of its subdivisions prohibiting any transaction on the same until this appeal is heard and determined, subject to directions that the appellant do file and serve a record of appeal together with written submissions to canvass the appeal herein within 14 days of today upon which the Respondent has 10 days to file and serve written submissions. Mention before the Deputy Registrar on 21.5.2021 to confirm compliance and to place the file before the judge to fix a judgment date.
5. Costs in the cause.
6. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA THIS 26TH DAY OF APRIL, 2021

R.E. ABURILI

JUDGE

In the presence of

Mr. Ooro Advocate for the appellant

Respondent in person

Appellant present

CA: Modestar and Mboya