



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 677 OF 2014

IN THE MATTER OF THE ESTATE OF M'IKIARA M'NGUTARI (DECEASED)

GEOFFREY MUGAMBI KIARA.....1ST PETITIONER

JULIUS GITOBU KIARA.....2ND PETITIONER

NICHOLAS MURIUNGI KIARA.....3RD PETITIONER

VERSUS

PATRICK MUTHOMI GITOBU.....INTERESTED PARTY/APPLICANT

PAUL GITONGA MUGO.....INTERESTED PARTY/APPLICANT

RULING

By an application dated 24.10.2019 Patrick Muthomi Gitobu the grand child of the deceased sought that the court allows him to adduce further evidence by calling one Mr Mithika R.G a surveyor to testify and produce mutation form which they recovered showing the deceased had started process of subdividing and sharing his property to his children but the process was stopped. When the 1st Petitioner filed HCCC No. 127 of 2007 and obtained orders of inhibition.

The application was supported by the affidavit of Patrick Muthomi Gitobu sworn on 24.10.2019. the application was opposed vide Reply of Affidavit sworn by 1st Petitioner, Geoffrey Mugambi Kiara sworn on 16.11.2019.

In consideration that the cause herein has not been concluded and in the interests of conclusively determining the matter this court is of the view that no prejudice will be suffered if additional evidence the applicant feels is crucial is placed before court, provided the Respondents are given an opportunity to challenge the same.

I will however award the Respondents throw away costs of Ksh. 3000/- each since the applicants have sought to re-open the case. Orders accordingly.

HON A. ONG'INJO

JUDGE

RULING DELIVERED, DATED AND SIGNED IN COURT ON 23rd DAY OF JANUARY 2020.

In the presence of :

C/A: Kinoti :-

1st petitioner:-Mr Gichunge Muthuri Advocate – No appearance

2nd petitioner:- Mr Muthomi K holding brief

3rd petitioner:- Mrs Ntarangwi Advocate for 3rd Petitioner

Interested parties:- Mr Muthomi J for 1st and Interested party

Mr Kithinji for 2nd Interested party – No appearance

HON A. ONG'INJO

JUDGE

Order

Hearing on 12.3.2020

Mr Muthomi J to serve Mr Kithinji Advocate.

HON A. ONG'INJO

JUDGE