

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NUMBER 237 OF 2008

IN THE MATTER OF MARY CHEMARUS (DECEASED)

RULING

1. By orders of this court **Ouko J** (as he then was) in a ruling dated 25/11/2011, the court directed the rectification of the certificate of confirmation of grant issued to Chepkemoi Angeline and Raphael Arap Chepkwony in respect of the Estate of Mary Chemarus Tele to exclude parcel of land Block 13/Bondeni/312 since Robert Tanui, the administrator of the estate of Sawe Busienei laid a claim that the said land belonged to Sawe Busienei deceased.
2. The said land became the subject of litigation in **Environment and Land Case Number 49 of 2013** (formerly **HCCC 53 OF 2011**) pitting Robert Tanui against the administrators of the estate of **Mary Chemarus Tele and 2 Others**.
3. In a subsequent ruling by this court **A.K. Ndung'u J** dated 19/11/2015, the orders of court of 25/11/2011 were set aside. The effect of the setting aside was that parcel number Nakuru Municipality Block 13/312 reverted to the administrators of the estate of Mary Chemarus Tele as per the certificate of confirmation of grant earlier issued.
4. By an order of the **ELC (D. Ohungo J)** dated 25/1/2018 the said suit (**Environment and Land Case Number 49 of 2013** formerly **HCCC 53 OF 2011**) was dismissed for want of prosecution.
5. The court in its orders of 19/11/2015 restrained the administrators from distributing parcel number Nakuru/Municipality Block 13/312 pending determination of **ELC 49 of 2013** (formerly **HCCC 53 OF 2011**). Since the suit **ELC 49 of 2013** (formerly **HCC 53 OF 2011**) has been determined in favour of the administrators following the dismissal of the suit by Robert Tanui, the interests of justice would demand that the restraining orders issued against the administrators of the estate of Mary Chemarus Tele be vacated to give effect to the certificate of confirmation of grant and facilitate the finalization of the administration of the estate of Mary Chemarus Tele.
6. I accordingly vacate the orders of court dated 19/11/2015 restraining the administrators of the estate of Mary Chemarus Tele from distributing parcel number Nakuru/Municipality Block 13/312.
7. The administrators are at liberty to apply in respect of furtherance of the administration of the estate herein.

Dated and Delivered at Nakuru this 30th day of January, 2019.

A. K. NDUNG'U

JUDGE