



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**SUCCESSION CAUSE NO. 196 OF 2013**

**IN THE MATTER OF THE ESTATE OF M'MBUTURA M'TWANTHUKU - DCD**

**TABITHA NJIRU N'RINGERA.....PETITIONER/RESPONDENT**

**VERSUS**

**KABURU M'MBUTURA.....APPLICANT/OBJECTOR**

**RULING**

By an application dated 15<sup>th</sup> January 2019 Tabitha Njiru M'Ringera/Petitioner herein seeks for an order that stay of execution of ruling delivered on 29<sup>th</sup> November 2018 be granted.

It was also her prayer that an order of inhibition restraining dealings on LR Abothuguchi/Mariene/104 do issue pending hearing and determination of an intended appeal. The application was supported by affidavit of Tabitha Njiru M'Rinera and the grounds on the face of the application.

The Respondent Kaburu M'Mbutura filed a Replying affidavit in opposition to the application sworn on 28<sup>th</sup> January 2019.

Directions were taken that application be canvassed by way of written submissions but none has so far been filed. The applicant has not filed the intended appeal and this court can't assume that the intention will ever be executed in the future. After all the applicant had 30 days from 29<sup>th</sup> November 2018 and 2 months have lapsed since and there is no indication notice of Appeal was filed in the Court of Appeal or that an application was made for supply of proceedings herein.

This matter was filed in 2010 and canvassed by viva voce evidence and the application herein is seen by the court as a ploy to delay the winning party from enjoying his award. The application dated 15<sup>th</sup> January 2019 has no merit and same is dismissed with costs to the Respondents.

**HON. A.ONG'INJO**

**JUDGE**

**RULING DELIVERED, SIGNED AND DATED THIS 26<sup>TH</sup> DAY OF FEBRUARY 2019.**

**HON. A.ONG'INJO**

**JUDGE**

**IN THE PRESENCE OF:**

C/A:-

PETITIONER/RESPONDENT:- Mr Gikunda Anampiu Advocate – N/A

APPLICANT/OBJECTOR:- Mr Ngugi Advocate holding brief for Ngunjiri for applicant

**HON. A.ONG'INJO**

JUDGE