



**REPUBLIC OF KENYA**

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

**MISCELLANEOUS SUCCESSION APPLICATION NO. 36 OF 2017**

**IN THE MATTER OF THE ESTATE OF: JULIUS OKIRING KIRADE (DECEASED)**

**AND**

**IN THE MATTER OF:**

**JEFTA OSOKAYESE MURUNGA.....APPLICANT**

**VERSUS**

**WASHINGTON ITORI KIRADE**

**SAMUEL OUMUKULE KIRADE**

**JACOB IPAPO KIRADE**

**LEAH IDIONYI KIRADE.....RESPONDENTS**

**RULING**

1. The applicant cited the four respondents whom he alleges have the right to inherit in the estate of David Kirade (deceased). In his citation he has contended that prior to the demise of the deceased David Kirade, he had a valid court order in his favour which required the deceased to give him vacant possession of land parcel number **NORTH TESO/ KOCHOLIA/13**. I have seen a copy of the said court order dated 28<sup>th</sup> July 2003.
2. The respondents in opposition to the applicant have contended that the applicant has no interest in the said parcel of land parcel number **NORTH TESO/ KOCHOLIA/13**. This, according to them is because it is in the name of Catherine Amoit Emukule.
3. The applicant had disclosed this fact in his supporting affidavit. If he had no vacant possession at the time of transfer to Catherine Amoit Emukule, he could not be in a position to give her vacant possession. It is therefore simplistic to argue that the applicant has no interest in land parcel number **NORTH TESO/ KOCHOLIA/13**. I therefore order that the respondents to file a succession cause in respect of the estate of David Kirade (deceased) within 60 days. Failure to do so, the applicant will be at liberty to do so.
4. Costs of this application be borne by the respondents.

**DELIVERED and SIGNED at BUSIA this 30<sup>th</sup> day of April, 2019**

**KIARIE WAWERU KIARIE**

**JUDGE.**