



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

SUCCESSION CAUSE NO. 81 OF 2009

IN THE MATTER OF THE ESTATE OF THE LATE PRISCILLAH CHERONO CHEPKWONY (DECEASED)

JOHN CHEPKWONY.....PETITIONER/RESPONDENT

VERSES

EDNA JEPLETING KORIR.....OBJECTOR/APPLICANT

AND

LILIAN CHEPTANUI KEMEI.....1ST INTERESTED PARTY

RAEL CHEPNGETICH.....2ND INTERESTED PARTY

ZIPPORAH CHELAGAT MAIYO.....3RD INTERESTED PARTY

RULING

1. The deceased herein was the wife to the Petitioner/Respondent who died intestate. The petitioner then took out letters of administration which was confirmed in his favour. According to the pleadings, the deceased together with the applicant sired 3 children who are the 3 interested parties herein.
2. She left behind land parcel number **KIMONDO/ENDEBESS BLOCK 2/MUBERE/185**.
3. It appears that from there, there was some protracted matters at the Environment and Land court between the parties herein as well as their step siblings which ended up at the Court of Appeal. The final outcome was that the land belonged to the interested parties and not their step brothers and sisters.
4. The said parcel of land has since pursuant to the confirmed grant been divided into three with the resultant titles being land parcels numbers **KIMONDO/ENDEBESS BLOCK 2/MUBERE/241,242, and 243** respectively. The same was transmitted to the interested parties in that order.
5. The applicants application dated 18th February 2019 seeks inter alia to have the grant revoked and injunction issued against the interested parties and specifically she be allowed to continue utilising parcel number 243 which was given to the 3rd interested party. Her main contention is that she is the daughter of the deceased and was left behind by their father when he applied for the letters of administration.
6. She argued that she has undergone untold sufferings at the hands of her siblings including demolition of her house among others. She attached several annexures to her application including a letter from the local chief who acknowledged that the applicant was the deceased daughter with the petitioner.
7. This court ordered that the respondent and specifically the interested parties be served and as at the time of the inter parties hearing of the said application, despite being served as per the affidavit of service of one Eliud Tanui they did not file any response.
8. The issues raised in the application are obviously weighty in nature especially whether in light of the revelations by the applicant it is true that she is the deceased daughter then why was she left behind. Secondly why did she take all the time and delayed in filing these objection proceedings?
9. Be it as it may, this court is satisfied that there is a prima facie evidence that she could be entitled to the estate of her mother. There is therefore need to ensure that there is equality of arms for now. The orders which shall follow are only interim and to preserve the status quo.

They will obviously jolt the other interested parties into action.

10. In the premises ,it is hereby ordered that:

a. There be temporary orders of injunction jointly and severally against the interested parties from selling, transferring, charging, leasing or in any other way adversely dealing with parcels number KIMONDO /ENDEBESS BLOCK 2/MUBERE/241, 242, and 243 pending the hearing and determination of this objection proceedings.

b . The applicant be and is hereby allowed unconditionally from utilising land parcel number KIMONDO /ENDEBESS BLOCK 2/MUBERE/243 pending the hearing and determination of this objection proceedings.

c. The costs shall be in the cause

Dated, signed and delivered in open court at Kitale this 24th day of April, 2019.

H.K CHEMITEI.

JUDGE.

24/4/19