



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 45 OF 2002

IN THE MATTER OF THE ESTATE OF JONATHAN M’ITAMBU M’ MUGAMBI (DECEASED)

SILAS RUGUARU M’ ITAMBU.....PETITIONER/RESPONDENT

VERSUS

GEDION MUTWIRI M’ATAMBU.....1<sup>ST</sup> OBJECTOR/RESPONDENT

GRACE KAGWIRIA JOHN.....2<sup>ND</sup> OBJECTOR/RESPONDENT

AND

ZIPPORAH MUKOMARANGU MUTWIRI....INTERESTED PARTY/APPLICANT

**PARTIAL RULING**

1. The Interested Party/applicant herein is the widow of the 1<sup>st</sup> Objector herein (now deceased).She took out Limited Grant of letters of Administration- Ad litem in **Meru Misc. Succession Cause No. 101 of 2018 In the Matter of the Estate of Gedion Mutwiri M’ Tambu** hence competent to institute the aforesaid application.

2. She seeks an orders of;

**a. Temporary injunction to restrain the petitioner/ Respondent, one Misheck Mwenda M’Tambu their agents, personal representatives, workers or any one acting at their behest from interfering with the applicant occupation on L.r. No. Abothuguchi/Ruiga/1987 & 1988 subdividing it, cutting down, selling sawing or ferrying trees and /or timber, cultivating, demolishing the applicants houses evicting the applicant’s or constructing any structure on the portion occupied by the applicant her family on the suit land pending the hearing and determination of Nyeri Appeal No. 1 of 2018.**

3. Before I can determine the application for injunction, I wish to tackle some important issues. I see a legal hitch; the interested party never sought leave of the Court to be joined in this proceeding as personal representative or beneficiary of the deceased 1<sup>st</sup> Objector. I direct that be done forthwith. Second, she has talked of Nyeri Appeal No. 1 of 2018 against the decision herein. I have looked everywhere in these proceedings and I have not seen a notice of appeal or memorandum of appeal. I direct the appeal to be provided through and affidavit. Once these two matters are accomplished I will consider the application for injunction and determine it at a date to be appointed by the court. It is so ordered.

**Dated, signed and delivered in open court on 23<sup>rd</sup> May 2019**

.....

**F. GIKONYO**

**JUDGE**

**IN PRESENCE OF**

**Kiogora for petitioner**

**M/s Kiome holding brief or Mbaabu for applicant**

.....

**F. GIKONYO**

**JUDGE**