



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET
SUCCESSION CAUSE NO. 35 OF 2017

IN THE MATTER OF THE ESTATE OF CHESIMET KIPSUGUT CHIRCHIR –DECEASED

-AND-

IN THE MATTER OF JOSEPH KIPKEMOI SUGUTT.....PETITIONER

-VERSUS-

CAREN CHEPKORIR KORGOREN.....APPLICANT/BENEFICIARY

RULING

By way of a Notice of Motion application dated the 19th day of June 2017, the applicant seeks the following orders:-

1. That the Honourable court be pleased to order that the status quo be maintained pending hearing and determination of the succession cause herein.

The grounds are :-

- a. The petitioner has entered forcefully into the part of the Deceased parcel of land L.R No Kericho/Ndarawetta/780, wherein the applicant has been using.
- b. The petitioner and the applicant had agreed and temporary shared the aforesaid parcel of land into two parts each measuring approximately six (6) acres.
- c. That part of the land is the only source of livelihood for the applicant.
- d. In the event the petitioner continues to encroach in the said part of the land the applicants stands to suffer irreparably.

This application is opposed. The petitioner in his replying affidavit dated 24th July 2017 depones in paragraph 2 that he filed the succession cause on behalf of the applicant and the Estate comprised of L.R No. Kericho/Ndarawetta/780.

3. That the land was surveyed to ascertain the acreage only but not for subdivision and sale.

5. That the applicant has violated the provisions of the Succession Act by selling part of the land and encroached towards where the graves of their parents are. That a purchaser has forcefully taken two acres. Further that the napier grass alleged to have been destroyed belongs to the purchaser.

That the applicant has leased the remaining part of the land on her side to strangers to do farming.

The application before the court is for the maintenance of status quo.

It is not in dispute that L.R No. Kericho/Ndarawetta/780 forms part of the estate and that it comprises about 13 acres. Same had been surveyed and a sketch map drawn CK1. The applicant subdivided her portion into two. One comprising two acres and another comprising 4 acres as shown in the sketch map. There are allegations of encroachment by the petitioner which are denied. I find that it's only fair and just that pending the hearing and determination of this cause a status quo be maintained as prayed.

Ruling delivered dated and signed this 15th day of March 2018 in open court and in the presence of learned counsel for the applicant Kenduiwa, learned counsel for the Respondent Koech.

M. MUYA

JUDGE

15/3/2018

Court Assistant Rotich

M. MUYA

JUDGE

15/3/2018

Mr. Kenduiwa – The succession case was filed by the petitioner. He had yet to have the matter gazetted.

M. MUYA

JUDGE

15/3/2018