

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MAKUENI

HC P&A NO. 197 OF 2017

FORMERLY MACHAKOS HC P&A NO. 53 OF 2008

IN THE MATTER OF THE ESTATE OF KITUMA NGAUNDA MUSAU (DECEASED)

KAMEME KITUMA NGANDA.....PETITIONER

VERSUS

JULIUS MUTHUNGU MUKANDA.....PROTESTOR

RULING

1. This matter came for hearing of Application dated and filed on 22/12/2008 for Confirmation of Grant before Mutende J. and a Ruling on 22/10/2015.
2. The same has been opposed by protest lodged by Julius Muthungu Mukanda.
3. The court declined to confirm grant as the deceased sold suit land to the protestor and put him in possession where of he developed it by erecting permanent structures.
4. Subsequently, a land dispute tribunal heard the matter and awarded same land to the protestor and same verdict was entered into a court judgment which remains in force and unchallenged.
5. There was even order for eviction of the Petitioner and her family from the suit land.
6. What remains is the formal transfer of suit land into the protestor's name.
7. Thus this court rejects the claim for distribution and directs the parties to lodge case to the ELC court for determination as to their ownership right thereof.
8. The protest and confirmation of grant and even distribution are therefore stayed to avail opportunity to the ELC court time for determination of issues once claim is lodged.
9. The protestor has 30 days to file ELC case in default this court to proceed with distribution process.

THIS RULING SIGNED, DELIVERED THIS 21ST DAY OF JUNE 2018, IN OPEN COURT.

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C. KARIUKI

JUDGE