

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 447 OF 2014

IN THE MATTER OF THE ESTATE OF ELIZABETH NCORORO ISAIAH - DECEASED

ISAIAH NTONG'ONDUPETITIONER/1ST RESPONDENT

ZABERIO MUTURIA M'ITUIRI.....INTERESTED PARTY/2ND RESPONDENT

VERSUS

HENRY GITUMA EBUTHANIA.....1ST OBJECTOR/APPLICANT

EZEKIEL LILLI M'MAILUTHA2ND OBJECTOR/APPLICANT

RULING

Subsequent to determination of application for revocation of Letters of Administration herein delivered on 17th May 2018, the Objector/Application dated 18th May 2018 seeking review and/or setting aside of orders made on 17th May 2018 and stay execution of the orders of 17.5.2018 pending determination of application for review.

The application is based on the grounds on face of affidavit and supporting affidavit of Henry Gituma Ebuthama. The application was opposed by the Reply Affidavit Isaiah Ntong'undu Paul sworn on 28th May 2018.

The application was canvassed by way of written affidavits. Grant made on 15th December 2014 to Isaiah Ntong'undu Paul was confirmed by Justice Gikonyo on 8th March 2016 and in my view the application dated 12th October 2016 seeking temporary injunction restraining the petitioner/Respondent his agents, purchasers from entering, building, erecting, constructing trespassing, further subdivision or transferring and/or in any way. Whatsoever interfering with Parcel no. Njia/Libunu/236 or 151 until the said application was determined in my view was overtaken by events. For this court to revoke grant it needed to be shown how the applicant was related to the deceased as beneficiary and/or dependant. As the court held earlier claims of ownership over land or claims of trust can only be determined in the Environment and Land Court.

This court does not therefore find any reason to review its orders made on 17th May 2018. If the Petitioner who was the deceased persons husband is found to have improperly acted on this land in question then the Environment & Land Court will be at liberty to pronounce itself so.

The application for review is dismissed with costs.

HON. A.ONG'INJO

JUDGE

RULING SIGNED, DELIVERED AND DATED THIS 2ND DAY OF AUGUST 2018.

In the presence of:-

Petitioner:- Ms Mwilaria Advocate for Petitioner

Objector:-Ms Ngugi Advocate for Objector.

HON. A.ONG'INJO

JUDGE