



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**SUCCESSION CAUSE NO.114 OF 2007**

**IN THE MATTER OF THE ESTATE OF KARUNTIMI ANGAINE MUCHERE (DECEASED)**

**DANIEL MURITHI ANGAINE.....PETITIONER**

**Versus**

**STANLEY MUTWIRI ANGAINE.....1<sup>ST</sup> RESPONDENT**

**ERIC KINYUA KIARIA.....2<sup>ND</sup> RESPONDENT**

**RULING**

[1] On 3<sup>th</sup> June 2016, this court made the following observations and order:

**I have stated that the title of the suit property had been registered in the names of the 1<sup>st</sup> Respondent and the deceased in equal shares. There is however, no material before the court which succinctly show whether the ownership was joint or in common. The lacunae will require establishing the kind of proprietorship this was before anything substantial can be said. For now, in order to preserve the suit property, I will order an inhibition to be placed upon the suit land until I determine the above issue and make further order. But, I will not cancel the current registration until I decide on the foregoing issue. The record will remain as is except there shall be no further dealings on the land. It is so ordered.**

[2] On 27<sup>th</sup> September 2016 the type of ownership of the suit property was settled- parties confirmed and the court recorded that the deceased and Stanley M'Mutwiri Angaine were registered as tenants in common in equal shares of undivided shares in L.R. No. Nkueni/L- Mikumbune/582. Therefore, only one part of the suit property is the estate property and the subject of these proceedings. That issue is now fully settled. Except, however, parties stated that prayer No 4 of the application dated 30<sup>th</sup> June 2015 is outstanding. I note that the said prayer sought to restore sole ownership of L.R. No. Nkueni/L- Mikumbune/582 to and be registered in the sole name of the deceased. But, following the decision by this court that the property was owned in common, Prayer No 4 cannot be granted as initially formulated. Accordingly, the apt order to make is and I hereby order that the L.R. No. Nkueni/L- Mikumbune/582 shall revert into the names of the deceased and Stanley Mutwiri Angaine. Any other entry which is inconsistent with this order shall be cancelled. Thereafter, the one half of the said land which belongs to the deceased shall be shared equally by the Petitioner and the 1<sup>st</sup> Respondent. And, as a consequence thereof, the grant and Certificate of confirmation herein shall be amended to reflect these changes. It is so ordered. With this order the application dated 30<sup>th</sup> June 2015 is now fully determined.

**Dated, signed and delivered in open court at Meru this 25<sup>th</sup> April 2017**

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**F. GIKONYO**

**JUDGE**

In the presence of:-

M/S Wanjohi for Kiogora for respondents

M/S Nyaga for E. Kimathi for petitioner.

C.C Mwenda

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**F. GIKONYO**

**JUDGE**