



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
SUCC CAUSE NO 84 OF 1989

MEME M'IMENTIAPPLICANT/PETITIONER

VERSUS

ELIJAH M'NGITI M'RINTAUGU.....RESPONDENT/OBJECTOR

RULING

1. The Notice of Motion dated 4th April, 2014 seeks the following orders:-

- a. That the title in respect of the land parcel Number Lower ABOTHUGUCHI/KIIJA/114 held by the Court under its order made in this matter on 5/10/1989 be released to the applicant.
- b. That the costs of this application and the entire suit be borne by the respondents.

2. The Application is based on the following grounds:-

- i. The said title No. LOWER ABOTHUGUCHI/KIIJA/114 was ordered held by honourable Court under its order of 5/10/1989 pending the determination of the dispute in a succession cause.
- ii. The rights of the parties to the said property were determined with finality in the Meru High Court Succession Cause No. 44 of 1994 being the matter of the estate of M'IRWARE M'MITHURO (DECEASED) where in the first respondent herein was the petitioner and the applicant here in was the objector.
- iii. The Court in its final judgment in the above succession cause decided that the applicant herein M'NGITI M'RINTANGU was entitled to the whole estate of the deceased including the title Number LOWER ABOTHUGUCHI/KIIJA/114 as the administrator.

3. Applicant has also filed a Supporting Affidavit where he has deponed as follows:-

1. That he his the Applicant/Defendant in the main suit and therefore competent to make this affidavit.
2. That the title Number LOWER ABOTHUGUCHI/KIIJA/114 was the subject of the claim in this suit.
3. That the said title was held by the Court vide its order in this matter dated 5.10.1989 copy of which is annexed hereto and marked "MM1".

4. That in its aforesaid order the Court directed the parties to have their rights determined by a probate and administration Court.

5. That the matter and issue and rights of all parties have been determined in the Meru High Court Succession Cause Number 44 of 1994.

6. That Applicant annexed hereto the copy of the Certificate of Confirmation of the grant same dated 8th June, 2009 and marked. "MM2".

7. That the applicant makes this affidavit in support of the application to have the title for the said parcel L ABOTHUGUCHI/KIJA/114 released to me.

4. The application was served but no response has been filed. I find that the application has merit. The same is allowed with costs to Applicant.

DELIVERED, DATED AND SIGNED AT MERU THIS 26TH DAY OF JULY, 2017 IN THE PRESENCE OF:

C:A Janet

HON. L. N. MBUGUA

JUDGE