

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE NO. 4 OF 2014

IN THE MATTER OF THE ESTATE OF MBOGO M'FUNDI (DECEASED)

RAFU NJURA MBOGO.....APPLICANT

VERSUS

MARY IGOKI MBOGO..... RESPONDENT

RULING

1. The applicant seeks the removal of a restriction lodge in respect of land parcel No. Kyeni/Mufu/6250. He also seeks that the costs of this application be provided for. He has stated that the restriction was registered on the suit land during the pendency of this suit.
2. The applicant's application is anchored in his supporting affidavit dated 22nd December 2015. In his affidavit he has stated that letters of administration intestate in this matter were issued to the applicant on 10th March 2014 and were confirmed on 12th March 2015. After confirmation, he realized that Margery Igoki Mbogo had placed a restriction on the suit land. He has further stated that Margery Igoki Mbogo is neither a petitioner nor a beneficiary to the estate of the deceased. After being requested to remove it, she refused to do so. It is for these reasons that he now seeks the removal of that restriction.
3. The application was heard in the absence of the respondent. The respondent was served with the hearing notice of this matter. I found that the respondent was properly served and had adequate notice. It is for this reason that the proceedings were conducted in the absence of the respondent.
4. I find that this application is unopposed. I believe the affidavit evidence of the applicant that he was issued with a confirmed grant dated 12th March 2015. The confirmed grant has not been challenged to date. In the circumstances, I hereby grant his application that the restriction entered in respect of the suit land reference No. Kyeni/Mufu/6250 should be removed.
5. I make no orders to costs.

RULING DATED, SIGNED and DELIVERED in open court at EMBU this 9th day of June 2016

In the absence of both the applicant and respondent

Court clerk Njue

J.M. BWONWONGA

JUDGE

09/06/2016.