

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE NO. 231 OF 2015

IN THE MATTER OF THE ESTATE OF ELVIS SAMUEL NJUE (DECEASED)

ESTHER WANGECHI NJUE.....PETITIONER

VERSUS

GEORGE WANJAU SAMUEL.....RESPONDENT

RULING

This application was brought under certificate of urgency and was certified to be urgent. The respondent George Wanjau Samuel appeared in person informed the court that he was served on 25th August, 2015 with this application. He therefore applied for an adjournment for seven days to enable him engage an advocate. Mr Gaturu for the petitioner does not oppose the application for adjournment.

However, he has applied that he be granted interim injunction to stop the respondent from encroaching on the disputed suit land.

The respondent asserts that the suit land belongs to his late father and has opposed the grant of a temporary injunction. He did so notwithstanding that he has not filed a replying affidavit in view of the late service of this application upon him which was only done on 25th August, 2015.

I have considered all these matters and I have come to the conclusion that the respondent is entitled to the adjournment that he has sought, which is not opposed.

In the light of the fact that the respondent has not filed any replying affidavit due to the late service upon him of the application on 25th August, 2015, the court has not had the benefit of the respondent's replying affidavit in order to substantively address the issue of a temporary injunction. It also lacks the same benefit in regard to the application for protection of the petitioner by the police.

In the circumstances, I grant the respondent the adjournment for seven (7) days to enable him engage an advocate and to respond to the application. And for this reason, I am unable to make any ruling concerning the application for the temporary injunction until the respondent has responded to the application.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this..27th day of **AUGUST, 2015**

In the presence of the Mr Gaturu for petitioner and in the presence of the respondent

Court clerk Susan Karimi

J.M. BWONWONGA

JUDGE

27.08.15