

REPUBLIC OF KENYA

IN THE HIGH COURT AT KAKAMEGA

SUCCESSION CAUSE NO: 888 OF 2010

**IN THE MATTER OF THE ESTATE OF PHILIP MALANGA CHIVULI alias MALANGA
CHIBULI.....DECEASED**

AND

ADRANE MUSONYE SHIBISI.....OBJECTOR

VERSUS

CHARLES MALANGA CHIVULI.....PETITIONER

R U L I N G

The Notice of Motion dated 8/5/2013 seeks an order of injunction restraining the petitioner and other beneficiaries from dealing with four (4) acres out of plot number **N/KABRAS/MALAVA/1261**. The applicant contends that he bought the four acres from the deceased and took immediate possession of the property. On his part, the respondent denies that the applicant bought the four acres from the deceased and that the applicant has never stayed on the suit land.

Given the nature of the application and the response is not clear to determine who is in occupation of the four acres. Plot number **N.KABRAS/MALAVA/1261** is about 7.8 Ha. The applicant annexed some sale agreements and he has to prove his claim through oral evidence since the applicant claims to be in occupation and claims to have bought four acres, I do find that the status quo should be maintained pending the hearing and determination of the cause. However, the applicant should not put up any new structures on the suit land until his claim is determined by the court. The application dated 8/5/2013 is granted as prayed. Costs in the cause.

Dated, signed and Delivered at Kakamega this 27th day of February 2014.

SAID J. CHITEMBWE

JUDGE