

REPUBLIC OF KENYA

IN THE HIGH COURT AT KAKAMEGA

SUCCESSION CAUSE NO: 475 OF 2005

**IN THE MATTER OF THE ESTATE OF CHRISPLE KIHARANGWA
LIADEMA.....DECEASED**

AND

MARY IRUSA ROVONI.....PETITIONER

VERSUS

MARY CHEPKONGAILEL.....OBJECTOR

R U L I N G

The application dated 14/12/2012 seeks orders of injunction and inhibition in relation to plot numbers **KAKAMEGA/MAUTUMA/2360,2163 AND 138** respectively.

The application is supported by the applicant's affidavit sworn on 14/12/2012. The applicant is the deceased's father while the two respondents are the deceased's widows.

The applicant contends that he is the deceased's dependant. He used to cultivate the suit land jointly with his son. He was not consulted when the succession cause was filed. The applicant would like to have the respondents restrained from dealing with the suit land pending the determination of the objection proceedings.

On their part, the second respondent seems to be partly supporting the application in her replying affidavit sworn on 2/7/2012, she contends that she is not aware of what is happening as the 1st respondent seems to have taken control of the estate. The 2nd respondent contends that the applicant was the deceased's dependant.

On her part, the 1st respondent objects to the application. She contends that the applicant has prevented them from using the land and he authorized the widows to file succession.

From the pleadings herein, it is clear that the two respondents are the widows of the deceased while the applicant is the deceased's father. The application seeks to restrain the respondents from sub-dividing alienating, selling or disposing off the suit land. I do find that the respondents were lawfully entitled to file this succession cause being the deceased's widows. The applicant is entitled to prove his dependency on the deceased. However before that is done, he should not chase away the respondents from the suit land nor interfere with the respondent's use of the deceased's estate. The applicant is hereby directed not to interfere with the respondents' use including cultivation and occupation of the suit land as that is tantamount to intermeddling with the deceased's estate. The application dated 14/12/2012 is granted in terms of prayer (d) in relation to the registration of a caution against plot number **KAKAMEGA/MAUTUMA/2360, 2163 and 138**. The rest of the prayers are hereby dismissed. The respondents to be left alone in their utilization of their late husband's land.

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

SAID J. CHITEMBWE

JUDGE