



**REPUBLIC OF KENYA**

**High Court at Embu**

**Civil Appeal 14 of 2013**

**(Formerly Succession Cause No.84 of 2012 Runyenjes)**

**MONICA WANGARI MUGO.....APPELLANT**

**VERSUS**

**JASON NYAGA.....1<sup>ST</sup> RESPONDENT**

**JANE MUTHONI NGOROI.....2<sup>ND</sup> RESPONDENT**

**R U L I N G**

This is the application by way of chamber summons dated 21st March 2013. It seeks a prohibitory order to issue against Land Parcel No. GATURI/NEMBURE/877, the subject of the appeal herein. It's supported by the grounds on the face of the application and the supporting affidavit of the appellant/applicant. The main ground is that the appellant/applicant has appealed against the decision of the Senior Resident Magistrate Runyenjes Court. The respondents in a joint replying affidavit have opposed the application saying they have no problem with the Ruling by the Runyenjes Court.

I have heard and considered all the submissions by counsel and all the parties herein. The 1st respondent has confirmed to this court that the suit property measures about 4.2 acres and is valued at about 2 million as it has commercial crops therein.

Did the Runyenjes Court have jurisdiction to deal with this estate? Section 48(1) of the Law of Succession Act provides for the jurisdiction of Shs.100,000/= for any magistrate's court which has been given jurisdiction to deal with succession matters under Section 48(1) of the said Act.

It is therefore clear on the face of the record that the value of the deceased's estate exceeded the Shs.100,000/=. Jurisdiction goes to the root of any matter. And that being the case, I do find that the applicant has good reason to apply for the orders sought pending the hearing of the appeal.

I therefore allow the application. A prohibitory order to issue against Land Parcel No. GATURI/NEMBURE/877. The appellant/applicant and all beneficiaries will not transact or dispose of any portion of this land until the appeal herein is heard.

Costs in cause.

**DELIVERED, SIGNED AND DATED AT EMBU THIS 14TH DAY OF MAY 2013.**

**H.I. ONG'UDI  
JUDGE**

**In the presence of:-**

**Mr. Mungai for the Appellant/Applicant**

**Both Respondents**

