



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
SUCCESSION CAUSE NO. 25 OF 2005

IN THE MATTER OF THE ESTATE OF JAMES KINYURU MUONGI (DECEASED)

EDWIN GITAU KINYURU 1ST APPLICANT/RESPONDENT

FRANCIS KARUGI KINYURU 2ND APPLICANT/RESPONDENT

RAYMOND MBUGUA KINYURU..... 3RD APPLICANT/RESPONDENT

PAULINE WANJIKU KINYURU 4TH APPLICANT/RESPONDENT

VERSUS

SAMUEL WAIRIRE KINYURU 1ST RESPONDENT/ APPLICANT

BEATRICE WAMUHU KINYURU 2ND RESPONDENT/APPLICANT

MIRIAM WAITHERA 3RD RESPONDENT/APPLICANT

ANDREW NJENGA 4TH RESPONDENT/APPLICANT

BENSON KINYURU MUONGI 5TH RESPONDENT/APPLICANT

PAULINE NENDAYA WAITHERA ... 6TH RESPONDENT/APPLICANT

RULING

I have perused the Summons dated 3rd February 2012. The Applicants seek in the said summons three orders as follows:

1. THAT the ruling and or order of Hon. Mr. Justice Isaac Lenaola issued and delivered on 27th day of January 2012 on this matter be stayed by this Hon. Court pending determination of intended appeal of the whole suit by the applicant/respondent herein, at the Court of Appeal

2. THAT the Respondent/Applicant herein be restrained by the order of this Hon. Court they themselves their agents, servants, employee or otherwise from interfering, trespassing, destructing, partitioning and or dealing whatsoever with the applicants/respondent

3. THAT such other and/or further relief to be granted as this Court may deem fit and just to grant in the circumstance of this matter.

The Honourable Mr. Justice Isaac Lenaola had on 27th January 2012 made the following orders.

1. *Miriam Waithera and Andrew Njenga are lawful children of the deceased and are entitled to the estate.*
2. *Land parcel No.Gitaru/Muguga/799 shall be shared equally among the children of the deceased with Pauline Nendaya Waithera taking her deceased's mother's portion save that Edwin Gitau and Francis Kinyuru shall be entitled to the land where their houses stand and access thereto only.*
3. *The District Surveyor, Kiambu shall implement this order at the cost of each beneficiary save Edwin Gitau and Francis Kinyuru.*
4. *Each party shall bear its own costs.*

I order that the application be served on the six named Respondents and be listed for inter partes hearing thereafter.

I further direct that the said application shall be heard inter partes on 6th March 2012.

In the meantime, I order stay restraining the District Surveyor Kiambu from proceeding with implementation of the court order until the Application is heard on 6.3.2012 when further orders shall be made or this order shall be discharged.

Dated at Milimani Law Courts, Nairobi, this 17th day of February 2012.

G.B.M. KARIUKI, SC
JUDGE

COUNSEL APPEARING

Ms Khisa of Mangerere Ngisa & Co. Advocates for the Applicants

Mrs. Morara Advocate for the Respondent

Mr. Kugwa - Court Clerk