



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF BUNGOMA**

**HCCC NO.59 OF 2008**

**ESNAS ASIRI MUNG'EDI.....PLAINTIFF**

**VS**

**ASIRIKWA.....STEPHEN SIMON  
1<sup>ST</sup> DEFENDANT**

**NANGEKHE.....ROSELYNE  
2<sup>ND</sup> DEFENDANT**

**KAWA.....JOSEPH OPICHO  
3<sup>RD</sup> DEFENDANT**

**MASAKE.....PRIDGEON BARASA  
4<sup>TH</sup> DEFENDANT**

**BRAHIM.....ASLAN E. LASCAR  
5<sup>TH</sup> DEFENDANT**

**NJAMBI.....ISABEL MARTHA  
6<sup>TH</sup> DEFENDANT**

**WATI.....TERESA NAKHUNGU  
7<sup>TH</sup> DEFENDANT**

## **RULING**

In paragraph 2 of the affidavit sworn in support of the summons reference is made to a confirmed grant. Copy of this grant was not annexed to show the extend of the estate of the deceased, the ascertained beneficiaries and the respective shares. The court would not know at this stage whether the deceased had made any provision to the Defendants before he died.

The basis upon an interlocutory injunction is issued is whether the Appellant has demonstrated a *prima facie* case with a probability of success; whether he will otherwise suffer irreparable loss and damages; and whether, if the court is in doubt, the balance of convenience tilts in his favour (**Giella v. Cassman Brown & Co. Ltd [1973] EA 358**). I do not find that the principles, or any of them have been satisfied. The application is dismissed with costs.

Ruling delivered in open court this 15<sup>th</sup> day of March, 2012.

**A. O. MUCHELULE**

**JUDGE**