



REPUBLIC OF KENYA

High Court at Eldoret

Succession Cause 97 of 2011

IN THE MATTER OF THE ESTATE OF ANDREA SONGORO CHEPNGOM (DECEASED)

AND

SUSAN CHEMAIYO CHEPNGOM.....APPLICANT

VERSUS

SAMMY KIPRONO KOECH.....RESPONDENT

RULING:

The Application is brought by way of Chamber Summons under Rule 43 (1) and (3) of the Law of Succession and under Order 44 rule (2) (A) of the Civil Procedure Rules and Section 80 of the Civil Procedure Act.

The Applicant is the administrator of the Estate of Andrea Songoro Chepngom.

The Applicant is acting in person and seeks orders for states quo and orders to restrain any party or persons from interfering with the surveyors duties during the process of sub-division.

The Applicant relies on her Supporting Affidavit where she has deponed that she is the Administrator of the Estate.

That a Certificate of Confirmation was issued by the court and is annexed to the Application and is dated the 20th February, 2012.

The property known as **MOGOBICH/CHEPTILILIK/BLOCK 1/86** forming part of the Estate has been apportioned and divided into three (3) portions.

The Applicant stated during the hearing of the Application that she was having problems with one of the beneficiaries, namely **SAMMY KIPRONO KOECH** who is a grandson of the deceased **ANDREA SONGORO CHEPNGOM**, who was interfering with the process of sub-division.

The Applicant prayed that the District Commissioner be ordered to provide security when the surveyor visits the property.

The court has had occasion to peruse the Application in particular the provisions of the law under which this application is brought.

The court will give the Applicant the benefit of doubt as she is a lay person, and proceed to determine the matter regardless of the fact that the Application is brought under the wrong provisions of the Law of Succession Act (Cap 160). The order cited of the Civil Procedure Rules and the Section cited of the Civil Procedure Act are also wrong.

Nevertheless, in the interests of justice, this court will allow the application as the Applicant is just seeking the courts assistance in having the property distributed as set out in the Certificate of Confirmation and has encountered resistance from one of the beneficiaries.

The application is hereby allowed and the court orders that;

- 1) The 3rd Beneficiary **SAMMY KIPRONO KOECH** is hereby restrained from interfering with the process of sub-division and survey of the parcel known as **MOGOBICH/CHEPTILILIK/BLOCK 1/86**.
- 2) The Officer in Charge of Police at the nearest police station to provide the surveyor with security during the survey and sub-division exercise.
- 3) The Applicant shall meet the costs of the police escort.

It is so ordered.

Dated and Delivered at Eldoret this 22nd day of October 2012.

**A.MSHILA
JUDGE**

CORAM:

Before: Hon. A Mshila J

CC: Andrew

Counsel for the Applicant: No appearance.

Counsel for the Respondent: No appearance

**A.MSHILA
JUDGE**