



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**SUCCESSION CAUSE NO.2217 OF 2009**

**IN THE MATTER OF THE ESTATE OF GITAU BUBI (DECEASED)**

**JOSEPH KARANJA GITAU.....**

**APPLICANT**

**VERSUS**

**STEPHEN KARIUKI GITAU.....**

**OBJECTOR**

**R U L I N G**

Before me is an application by Joseph Karanja Gitau, the applicant, seeking to have the orders which were issued on 1<sup>st</sup> October 2003 dismissing his application for want of prosecution reinstated to hearing. From the submissions made by counsel for the respondents and from this court's perusal of the court record, it was evident that this is not the first time that the applicant has presented to the court such an application. Applications similar to the present one have been considered respectively by Koome J, Dulu J and Rawal J. All the said judges ruled that the applicant's applications did not have merit. It appears that the applicant was seriously aggrieved by the said decisions of the court. The said courts are courts of concurrent jurisdiction.

This court cannot sit an appeal against the decision of the said three (3) courts which are courts of similar jurisdiction. The applicant ought to have filed appeal against the said decision to the Court of Appeal if he was dissatisfied. By filing multiple applications before this court, the applicant will not help his cause and in fact, it may result in the applicant irreparably damaging his case.

I hold that the present application filed by the applicant is *res judicata*. It has been previously considered and a determination rendered by a court of competent jurisdiction. It cannot be relitigated again before this court. The application dated 2<sup>nd</sup> December 2010 is hereby dismissed with costs to the respondents.

**DATED AT NAIROBI THIS 23<sup>RD</sup> DAY OF FEBRUARY, 2011**

**L. KIMARU  
JUDGE**