

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
Succession Cause 83 of 1994
IN THE MATTER OF THE ESTATE OF MBUGUA WANGUYU (DECEASED)

PETER KIHARA KURIA.....APPLICANT
VERSUS
HANNAH NYAMBURA KURIA.....RESPONDENT

RULING

The Applicant and the Respondent are siblings. The Applicant claims that before their deceased father died, he had subdivided his piece of land and allocated portions thereof to his children. The Applicant took his 9 acres portion in 1989, developed it and has peacefully lived on it since then. His sister, the Respondent, who is married and has her own land in Ngarasha in Nakuru has now invaded his land and is claiming about 2.25 acres out of it. Pending the hearing and determination of this cause, the Applicant seeks under **Sections 45, 47 and 55** of the **Law of Succession Act** as well as **Rules 49 and 73** of the **Probate and Administration Rules** an injunction to restrain the Respondent from cutting down trees, ploughing, building and or putting to waste his portion of Plot No. 320 Milangine Scheme. The application is supported by the Applicant's affidavit.

Though served the Respondent neither filed any document in opposition to the application nor did she appear at the hearing to oppose it. In the circumstances and having considered the matter, I allow the application as prayed and order that pending the hearing and determination of this cause, an injunction is hereby issued to restrain the Respondent by herself, her servants and/or agents from cutting down trees, ploughing, building and or putting to waste the Applicant's portion of Plot No. 320 Milangine Scheme.

The Applicant shall have the costs of this application against the Respondent.

DATED and delivered this 19th day of January, 2010.

D. K. MARAGA
JUDGE.