



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS
CIVIL APPEAL 89 OF 2002

MUE KYAU'S FAMILY LAND DISPUTE

Thro' CHARLES MUE APPELLANT

VERSUS

MAKAU MUE RESPONDENT

(Being an appeal from the Ruling of Honourable M.N. Gicheru P.M dated 9th August 2002 in Principal Magistrate Civil Case No. 49 of 2001)

JUDGMENT

1. On 22/9/2008, I delivered a preliminary judgment in this matter and left two issues to be addressed in this final judgement viz;

- i. the outcome of the Appeal to the Provincial Appeals Committee by the Respondent in this Appeal;
- ii. the status of **PM'S Succ. Cause No. 97/1998 (Kitui)**.

2. I called for evidence on the two issues before I could conclude the judgment and I now have two documents before me;

a. Certificate of Confirmation of Grant issued in **H.C.Succ. Cause 97/1998 (Nbi)** relating to the estate of Mue Kyau (deceased). The earlier reference to **PM'S Succ. Cause 97/1998 (Kitui)** was therefore in error. The estate of the deceased was distributed in that Cause and one of the properties to be distributed was title No. Matinyani/Kalindilo/156 which was PARTLY the subject of the Appeal before me. Amongst the individuals to inherit that parcel of land was one Makau Mue, the present Respondent.

b. As regards Eastern Provincial Appeals Committee Appeal No. 102/2001, by letter dated 14/10/2008, one S.M. Kariuki visiting on behalf of the Provincial Commissioner, Eastern Province, the Appeal is still pending and no decision has been made in that regard.

3. Turning back to the judgment that I delivered on 22/9/2008, it would seem to me that I should conclude the whole Appeal by stating thus;

Inspite of the pendency of the Appeal to the Provincial Land Appeals Committee, the Appeal before me has merit and is allowed as prayed with costs to the Appellant. This final judgment must be read as part of the one delivered on 22/9/2008.

Costs of the Appeal shall be borne individually by each party.

4.Orders accordingly.

Dated and delivered at Machakos this **28th** day of **May** 2009.

ISAAC LENAOLA

JUDGE

In presence of: **N/A for parties**

ISAAC LENAOLA

JUDGE