

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (NAIROBI LAW COURTS)

Succession Cause 2217 of 2000

IN THE MATTER OF THE ESTATE OF GITAU BUBI – DECEASED

RULING

I have before me an application dated 22nd February, 2008 seeking to set aside orders made on 1st October, 2003 and an application dated 6th November, 2001 to be heard afresh.

The applicant who appeared in person did agree that he has made similar two applications and they both were dismissed on 21st October, 2006.

I have read both these rulings and confirm that I have nothing useful to add, except to agree with the contention raised by the learned counsel for the Respondent that the present application is Res Judicata and this court cannot re-open the issue raised by the applicant. I do find that this application is absolutely incompetent and an abuse of the court process having been barred by the earlier two rulings between the same parties and on the same issue.

The application is thus dismissed with costs and the applicant is barred from making any application in respect to the prayers made therein. This issue should rest here.

I also order that the applicant pay costs of the Respondent.

Dated and signed at Nairobi this 22nd day of September, 2008.

K. H. RAWAL

JUDGE

22.9.08