



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT EMBU**

**Civil Appeal 15 of 2003**

**NJIRU MBUNYA.....APPELLANT**

**VERSUS**

**TERESIA MUTHONI.....RESPONDENT**

**JUDGMENT**

Misc Succession Suit in Resident Magistrate's Court at Wanguru being No. 12 of 2003 was initiated by Manager Mwea Irrigation Board. The matters of cultivation and management of Rice production in irrigation schemes is the responsibility of the Board. This application was therefore to determine the succeeding tenant after the deceased Stanley Muriithi Joshua. His family consented that the widow of deceased, Teresia Muthoni, do succeed as Tenant Rice Holding No. 623 the court ordered so on 27/3/2003. At the same time on 27/2/2003 one Njiru Mbunya had filed a suit in **Resident Magistrate's Civil Case No. 10 of 2003 Wanguru** by way of plaint in which the plaintiff claimed against the Stanley Muriithi surrender of Rice Plot No. 623. Stanley Muriithi Joshua died on 23/10/1999. There is no more record in respect of this suit.

I have perused the record of **Misc.Succession No. 12 of 2003** and it is to be seen that the Appellant Njiru Mbunya stated to court "Rice Holding 623" belongs to my father one Mbunya Njiru. I am not related to Stanley Muriithi. And the court found that the appellant had not proved his ownership. Appellant was not in court to challenge the registration of the plot 623. On the grounds of appeal there is nothing to show that the court did not record all evidence given by the parties. As I say above the proceedings were special under Irrigation Act to determine who was to succeed as tenant of the Rice holding 623 which was owned by Irrigation Board. Succession Suit in case of estate of deceased Stanley Muriithi Joshua were not before the Resident Magistrate. It was not inheritance of land which was in question but the Succession of tenancy to cultivate land in the land of Irrigation Scheme. After taking full consideration of all the record I do not find any fault in the Judgment of learned Trial Magistrate.

I find no merit in this appeal. The same is dismissed with costs to the Respondent.

Dated this 16<sup>th</sup> October, 2007.

**J. N. KHAMINWA**

**JUDGE**

**16/10/2007**

**Khaminwa – Judge**

**Njue – Clerk**

**Ms Njeru HB for Utuku**

**Mr. Njue HB for Kihani.**

Read in open court

**J. N. KHAMINWA**

**JUDGE**