



**REPUBLIC OF KENYA**

**IN THE HIGH COURT**

**AT EMBU**

**Misc Succ 159 of 2006**

**IN THE MATTER OF THE ESTATE OF WARUI NGUGU-DECEASED**

**AND**

**FRANCIS NJUNGE.....APPLICANT**

**VERSUS**

**CHIUMA NJAMBUYA.....RESPONDENT**

**RULING**

Summons dated 9/11/2006 seeks orders to restrain the respondent from further dealing with the plots No. Mutira/Kirimunge/794 and 1081 and 1080 until the Summons of Revocation of the grant is heard and determined on the ground that the applicant was not involved in succession proceeding and he was disinherited and if the land is to pass to innocent parties the applicant would be disinherited. There is a replying affidavit by Respondent stating that the applicant has no locus standi and has no interest in the estate. The Respondent states that he is not the registered owner of parcel No. 794 and 1080 whose owners are not parties to this suit. And that this application is coming to court after 18 years delay.

I have perused the application and considered the submissions of counsel. It appears to me that the court would be acting in vain making orders against people not in the suit. Since the Applicant has waited for 18 years before taking action there is no justification for making an order so late in the day.

I therefore find that the applicant has not shown a prima facie cause with chance of success. Application is dismissed with costs to respondent.

Dated this 30<sup>th</sup> November, 2007.

**J. N. KHAMINWA**

**JUDGE**

**30/11/2007**

**Khaminwa – Judge**

**Njue – Clerk**

**Mr. Kahiga P.N for Applicant HB**

**Respondent present**

**Read in open court.**

**J. N. KHAMINWA**

**JUDGE**