

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU
Misc Succession 159 of 2006

IN THE MATTER OF THE ESTATE OF WARUI NGUGU.....DSD

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 30th 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