



Mutai (Suing as the legal administrator of the Estate of the Late Joseph Kiptum Bitok (Deceased) v Chelule (Environment & Land Case E007 of 2023) [2023] KEELC 17210 (KLR) (15 March 2023) (Ruling)

Neutral citation: [2023] KEELC 17210 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT & LAND CASE E007 OF 2023
EO OBAGA, J
MARCH 15, 2023**

BETWEEN

KENNETH KIBIWOT MUTAI APPLICANT

SUING AS THE LEGAL ADMINISTRATOR OF THE ESTATE OF THE LATE JOSEPH KIPTUM BITOK (DECEASED

AND

ELPHAS RONO CHELULE RESPONDENT

RULING

1. This is a ruling in respect of a notice of motion dated February 13, 2023. The Applicant contends that he is the biological son of Joseph Kiptum Bitok who died on February 9, 2009. The late Joseph Kiptum Bitok was son to Lulei Rono who is also deceased.
2. Prior to the demise of Joseph Kiptum Bitok, he had started constructing a permanent house which he did not complete. The Applicant was taken from his family and brought to his father's family where he lived with the grandmother. His uncles paid school fees for him until when he was in form three when he dropped out of school.
3. When the Applicant's grandmother died, he decided to put up his own house but his uncles demolished it and threw the iron sheets into the forest claiming that they did not recognize him. The Respondent who is a brother to the Applicant's father has now started completing the house which his father had started. It is on this basis that the Applicant wants the Respondent to be stopped from proceeding to complete his father's house and entering the same.
4. The Respondent who was served with summons to enter appearance neither entered appearance nor filed any response to the Applicant's application. There is evidence that there have been attempts



to arbitrate the issue of the Applicant who appears to have been sired out of wedlock. Some family members do recognize him as part of the family but some do not seem to recognize him.

5. The Applicant seems to be undergoing frustrations. He has nowhere to go to yet when the grandmother was alive no one seemed to raise an issue. The uncles even paid his school fees and had him circumcised. They cannot now change their minds and chase him away. The Applicant is entitled to protection and to protection of his father's house.

It is in this regard that I allow the notice of motion dated 13th February, 2023 in terms of prayers (3) (4) and (5).

It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET ON THIS 15TH DAY OF MARCH, 2023.

E. O. OBAGA

JUDGE

In the virtual presence of;

Ms. Lelei for Applicant.

Court Assistant –Laban

E. O. OBAGA

JUDGE

15th MARCH, 2023

