



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

MERU ELC CASE NO. 68 OF 2010

JANE MWARANIA1ST PLAINTIFF

JOSEPH GATOBU M'IKIUGU.....2ND PLAINTIFF

MONICA KAJUJU M'IKIUGU.....3RD PLAINTIFF

JANE KANANU M'IKIUGU.....4TH PLAINTIFF

VERSUS

FRANCIS MURITHI M'IKIUGU.....DEFENDANT

RULING

1. This application states that it has been brought to court under section 80 of the Civil Procedure Act and seeks the following orders:
 - a) This application be certified urgent and the same be heard ex-parte in the first instance and on priority basis thereafter.
 - b) There be stay of execution of the decree herein pending the hearing and determination of this application.
 - c) The judgment herein dated 1.8.2018 be reviewed to the extent that it orders the equitable sub-division of L.R. No. Abothuguchi/Kithirune/91 amongst all the family members of the deceased.
 - d) Costs be provided for.
2. The application is supported by the affidavit of Martin Mwirigi Kiugu, the applicant, and has the following grounds:
 - a) This honourable court declared the defendant to be holding L.R. No. Abothuguchi/Kithirune/91 in trust for the family members of M'Ikiugu M'Marete, deceased.
 - b) This honourable court ordered that the said L.R. No. Abothuguchi/Kithirune/91 be sub-divided equitably amongst all the parties in this case.
 - c) The applicant/Interested Party was not a party to the case though a son to the deceased hence also entitled to a share of the trust land.
 - d) That the judgment as is disinherits the Applicant/Interested Party who is also entitled to a share thereof.
 - e) That there is risk of the other parties sharing the said L.R. No. Abothuguchi/Kithirune/91 amongst themselves and leaving the Applicant out.
 - f) That unless an order of stay of execution of the decree herein is granted the other parties herein might proceed with the execution rendering this application academic and denying the Applicant the chance to be heard.
 - g) That the judgment should be reviewed to cover the interests of all the family members of the deceased as opposed to only the parties of this case.

3. I note that judgment in this matter was delivered by the Hon. Justice Mwangi Njoroge, ELC Judge, at Meru on **29th August, 2018**. Nearly three years after delivery of that Judgment, I decline to certify the application as urgent. The following orders are issued:

a) The application is not certified urgent.

b) The applicant to properly serve the application upon all the other parties within **14 days of today**.

c) Parties to present themselves for **directions before the ELC Court at Meru on 14th July, 2021**.

Delivered in Chambers this **15th day of June, 2021** in the presence of:

CA: Ndegwa

Delivered in the absence of the parties.

P. M. NJOROGE,

JUDGE.