



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KIAMBU

SUCCESSION CAUSE NO. 76 OF 2020

IN THE MATTER OF THE ESTATE OF PETER NJNOROGI KARIMA (DECEASED)

RULING

1. **HANNAH NJERI NJOROGI** and **ESTHER NJERI NJOROGI** petitioned hereof for grant of letters of administration intestate in respect to the estate hereof. Amongst the deceased's assets is property **GATAMAIYU/KAGW/227**.

2. A notice of motion application dated 26<sup>th</sup> January, 2021 was filed by **Tabitha Gathoni Kamau**. By that application, Tabitha seeks to have removed from this cause the property **GATAMAIYU/KAGWE/1227** (subject property) from the list of assets available for distribution in this succession cause. Tabitha has based her prayer on the ground that there is pending a case ELC No. 1 of 2020 between **Tabitha** and **Esther Njeri Njoroge**. In that case Tabitha seeks injunction to restrain Esther from alienating the subject property.

3. **Hannah Njeri** and **Esther Njeri** by their replying affidavit dated 30<sup>th</sup> April, 2021 stated that ELC case referred to by Tabitha was dismissed for want of prosecution. That deposition was not responded to, it was not rebutted and accordingly the court hereby finds that indeed that it was proved to be the position. Accordingly, there is no ground to grant an order removing the subject property from the list of deceased's assets.

4. Following the above finding, the notice of motion dated 26<sup>th</sup> January, 2021 is dismissed with costs.

**RULING DATED AND DELIVERED AT KIAMBU THIS 2<sup>ND</sup> DAY OF DECEMBER, 2021**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant: **Maurice**

For Tabitha Gathoni : Mr. Nduati

For Hannah Njeri

: Mr. Mitiambo

: Esther Njeri

**COURT**

Ruling delivered virtually.

**MARY KASANGO**

**JUDGE**