

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KAPENGURIA

SUCCESSION CAUSE NO. 9 OF 2018

IN THE MATTER OF THE ESTATE OF THE LATE CHEPLEKE CHEMUSANY - (DECEASED).

SHEILA CHEMTAI CHEMUSANY.....APPLICANT

VERSES

GIDSON CHEMUSANY NIWAI.....RESPONDENT

RULING

1. By her summons dated **6th August 2020** the Applicant prays for orders “**that the court be pleased to direct the Deputy Registrar of the high court to execute land control board and transfer forms for subdivision of LR NO. WEST POKOT/KERINGET, A, /401 on behalf of the Respondent herein.**”

2. The application is supported by the sworn affidavit of the Applicant dated the same date. She states that the 2nd Respondent has been uncooperative to sign the transfer forms since the grant was confirmed and she attached the relevant transfer forms which the Land Control Board has approved. She said that the land control board told her that the respondent has to sign the said forms.

3. Advocate **PETER KIARIE NDARWA** on behalf of the Respondent has deponed in his replying affidavit that the respondent has already preferred an appeal against the court’s judgement dated 13th February 2020 and that it would be in the interest of justice that the application is not allowed. That the appeal may be rendered nugatory should the application be allowed.

4. He further deponed that there was no evidence that the Applicant took the forms to the Respondent and he refused to sign.

5. The court has perused the application herein as well as the supporting affidavit and the ruling of my sister **SITATI J** dated 7th July 2020 dismissing the Respondent’s application for stay pending appeal.

6. In view of the above ruling this court if it refuses to grant the application herein would be tantamount to granting stay to the Respondent which in essence had been denied. The only recourse for the Respondent is to the Appellate Court. My sister’s decision has not been overturned or varied and therefore to that extent the same should be allowed to run its course.

7. In the premises, the application herein is allowed. The Respondent is however granted 14 days to sign the conveyancing documents and in default the Deputy Registrar of this court be at liberty to sign the same.

8. Each party shall meet their respective costs.

Dated, Signed and Delivered at Kapenguria this 8th day of October 2020.

H. K. CHEMITEI

JUDGE

8/10/2020