

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 629 OF 1993

IN THE MATTER OF THE ESTATE OF KIGATHI NG'ANG'A (DECEASED)

RULING

1. The application for determination is dated 13th September 2016. It seeks several restraining orders in relation to Muguga/Gitaru/726. He avers that he resides on the subject property with his mother. He complains that a fence has been erected on his compound completely blocking access to it from outside. He blames his mother, Holiday Wanjiku Kigathi, and his brother, James Kinyuru Kigathi, both of whom he has named in the application as respondents. He points out that there had been an order made in 2014 for *status quo*, but the same had been disobeyed.

2. The response to the application is by the second respondent, James Kinyuru Kigathi. He does not admit fencing off the applicant's compound. Indeed, he has not said a single word about the fence.

3. I visited the *locus in quo* on 10th April 2017. I made observations and prepared a sketch map of the large compound. I noted that a fence had been erected on the side of the property occupied by the applicant blocking his access to his side of the compound.

4. I am satisfied that there is merit in the application to warrant grant of the injunctive orders sought. The gate and fence erected after the orders of 2014 shall be removed or demolished. The officers commanding the Kikuyu Police Division and the Gitaru Police Station, and the Chief of Gitaru Location and the Assistant Chief Gitaru Sub-Location shall oversee the execution of the said orders. The administrators are hereby directed to distribute the estate as per the certificate of confirmation of grant on record within the next ninety (90) days, in default of which the grant shall stand revoked, and the administration handed over to new administrators.

5. It is so ordered.

PREPARED, DATED AND SIGNED AT KAKAMEGA THIS 31st DAY OF January , 2019

W. MUSYOKA

JUDGE

DATED, SIGNED and DELIVERED at NAIROBI this 15th DAY OF February, 2019

ASENATH ONGERI

JUDGE