



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT EMBU**

**SUCCESSION CAUSE NO. 627 OF 2013**

**IN THE MATTER OF THE ESTATE OF NJERERA KAVANGUA (DECEASED)**

**SAMMY MWIRIA NJERERA.....PETITIONER/APPLICANT**

**VERSUS**

**LUCA NYAGA NJERERA.....OBJECTOR/RESPONDENT**

**RULING**

1. The applicant **Sammy Mwiria Njerera** filed the application dated 27/02/2015 seeking for injunctive orders against the respondent Luca Nyaga Njerera to restrain him. His agents, servants and his employees from intermeddling and/or interfering with the estate of the deceased pending disposal of the cause.
2. The application was heard and determined by this court vide its ruling delivered on 27/07/2016. The application was not successful but the illegal action by the chief of Kyeni Central Location of allocating some of the beneficiaries' land to cultivate was declared null and void.
3. However, the court did not grant the prayer seeking for injunctive orders against the respondent for reasons given in the ruling.
4. The court invoked Rule 73 of the Probate and Administration Rules and granted several orders/directions for peaceful and orderly administration of the estate pending determination of this cause. Among the orders made was one directing the co-administrators jointly or any of them to file an application for confirmation of grant within 30 days.
5. The summons for confirmation dated 8/08/2016 was filed by one of the administrators Susan Wanja Ngochi through her counsel on record. The co-administrator Sammy Njerera filed a protest against confirmation dated 29/08/2016 through Albert Kamunde & Co. Advocates.
6. The court also heard the application brought by Sammy Mwiria dated 6/02/2017 seeking to nullify proceedings conducted by a person not qualified to be an advocate. In its ruling delivered on 14/12/2017 is very clear that this court only nullified proceedings where one Vincent Afande a person not qualified to act as an advocate had appeared before the court. These proceedings covered the period between 1/12/2014 to 6/12/2016.
7. Paragraph 26 of the said ruling is very clear that the application dated 27/02/2015 was not affected by the nullification order.
8. In effect, the application dated 27/02/2015, the submissions filed by the advocates on record remain valid and properly on record because they were filed by firms of advocates who were qualified to act as such at that time. The ruling of the court on the said application was therefore valid too and has not been challenged to date.
9. The application dated 27/02/2015 was heard and determined. I have perused this file carefully and I note that what is pending is the hearing of the protest against confirmation of grant.
10. It is hereby directed that the said protest filed on 29/08/2016 be fixed for hearing within 30 days.
11. It is hereby so ordered.

**DELIVERED, DATED AND SIGNED AT EMBU THIS 1<sup>ST</sup> DAY OF APRIL, 2019.**

**F. MUCHEMI**

**JUDGE**

**In the presence of: -**

**Mr. Mugo Andrew for Mr. Kamunda for Petitioner/Applicant**

**Ms. Ngige for Guserwa for Respondent**