



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 554 OF 1998**

**IN THE MATTER OF THE ESTATE OF JOHN PETER KEGURO (DECEASED)**

**ELIZABETH WANJIRU KEGURO.....PLAINTIFF/APPLICANT**

**VERSUS**

**LEAH WARUGURU KERUGO.....1<sup>ST</sup> DEFENDANT/RESPONDENT**

**ZIPPORAH WANJIRU KEGURO.....2<sup>ND</sup> DEFENDANT/RESPONDENT**

**R U L I N G**

1. The application subject of this ruling is dated and filed on 12<sup>th</sup> July 2018. The same was amended orally on the 18<sup>th</sup> of February 2019. It seeks to restrain the 1<sup>st</sup> Defendant/Respondent by herself and/or agents from interfering, trespassing, harassing, intimidating encroaching and or interfering with the Applicant's possession of **L.R. Githunguri/Kanjai /1269** pending further orders of the court.

2. Having looked at the proceedings this matter has several orders including a ruling made by Etyang J on the 30<sup>th</sup> July 1999 where he recognised the Applicant and the 1<sup>st</sup> Respondent as widows of the deceased at the time of death. There is a further order by Kimaru J dated 5<sup>th</sup> March 2019 where a grant earlier issued to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents on the 1<sup>st</sup> of July 2013, and confirmed on 7<sup>th</sup> October, 2013 was revoked and parties directed to obtain fresh a grant.

An attempt to review the order of Etyang J by the 1<sup>st</sup> Respondent was declined on the 18<sup>th</sup> of November, 2014 and it appears that both widows thereafter went to slumber.

3. What I have derived from the averments of the parties is that at the time of the deceased death the Applicant resided on the property subject matter whereas the 1<sup>st</sup> Respondent resided elsewhere.

4. To avoid chaos and further altercation between the two families it would be prudent and reasonable to stop the construction by the 1<sup>st</sup> respondent for now, have grant obtained forthwith as earlier directed and thereafter an application for confirmation of the grant filed where distribution among the two families of the deceased may be done.

5. Consequently I make the following orders:

a) The Defendants/Respondents are hereby restrained from trespassing, encroaching and interfering with the Applicant's possession and enjoyment of property number **Githunguri/Kanjai 1269** pending further orders of the court.

b) The Applicant and the 1<sup>st</sup> Respondent be issued with a fresh grant of representation as joint administrators of the estate herein. They will apply for confirmation of the grant within the next 45 days

c) Costs in the cause.

**Dated and Delivered in Nairobi on this 7<sup>TH</sup> day of NOVEMBER, 2019.**

.....

**ALI-ARONI**

**JUDGE**