



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

SUCCESSION CAUSE NO. 159 OF 2000

IN THE MATTER OF ESTATE OF JUSTUS BAICHU KINOTI - (DECEASED)

HARRIET NKIROTE KINOTIPETITIONER

VS

GEOFFREY NTEEREOBJECTOR

RULING

Appellant Mburugu Mbogori Baichu by an application dated 24th May 2017 sought for stay of the proceedings. In this cause pending determination of Environment and Land Court cause No. 160 of 2017 in which he claims the asset herein through trust which this court sitting as a court in succession cause doesn't have jurisdiction to determine.

It was argued that parcel No. L.R Abothuguchi/Githongo/354 was not free property of the deceased as envisaged under S.3 of the Law of Succession Act as it was held by the deceased as a trustee to which the applicants are beneficiaries but the deceased died before he transferred respective shares to the applicant to him and his siblings as shown at paragraph 6 of supporting affidavit. It was averred at paragraph 7 that petitioner defied the proposal for distribution by the family and the entire clan.

It was sought that cause be stayed and the entire claim. It was sought that cause be stayed until their interests in L.R. 354 are determined in E&L Court C. No 160 of 2017.

The chief's letter identifying the dependants to the deceased dated 19th July 2000. Identifies them and the portions of land in question that each is to get as follows:-

1. Harriet Nkirote – 2.60 acres
2. Geoffrey Nteere – 1 acre
3. Mburugu M'Mbogori – 1 acre
4. Mwari M'Mbogori – 1 acre

The reason being that they all occupied the land that is registered in the deceased and which was held in trust for the family members.

Grant was made to the deceased person's widow/petitioner herein and subsequently objection. Proceedings were filed and evidence adduced. Upon realisation that the objection was filed against procedure as cause had already been filed the objection was withdrawn and parties instructed to file application for confirmation and protest if need be. On 13th February 2017 the court ordered that parties serve application for confirmation as matter had stayed for long since the year 2000.

Upon perusal of this cause I have noticed that apart from application dated 24th May 2017 in which a stay of execution is being sought an application dated 9th May 2017 by Gancheke Tea buying centre is also pending determination. No directions have been taken as to its hearing. They have also filed suit in Environment and Land Court c. No. 139 of 2017 and No. 160 of 2017 this court hereby orders that the Administrator will hold the land in question in trust pending the determination of the different interests/claims in ELC Nos. 139 and 160 of 2017.

This file is closed. To be opened later for purposes of certificate of confirmation.

HON. A.ONG'INJO

JUDGE

RULING SIGNED, DELIVERED AND DATED THIS 13th DAY OF JULY 2018

IN THE PRESENCE OF:

C/A:- Penina

Petitioner:- Ms Okello Advocate

Objector :- Mr Kaumbi Advocate for Protesters.

HON. A.ONG'INJO

JUDGE