



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**SUCCESSION CAUSE NO. 639 OF 2009**

**IN THE MATTER OF THE ESTATE OF THE LATE M'MURIANKI M'MUGWIKA (DECEASED)**

**JOHNSON RWIGI.....PETITIONER**

**VERSUS**

**MARY IGOKI MUTUARUCHIU.....PROTESTOR**

**RULING**

[1] By an application dated 18<sup>th</sup> January 2018 which is styled "Summons for Stay of Proceedings" this court has been asked to stay these proceedings pending the hearing and determination of Meru ELC No. 324/17 (O.S) in which determination of the ownership of L.R. No. Igoji/Kinoro/1043 has been sought.

[2] I have thoughtfully considered the application as well as the arguments presented. And I am particularly perturbed by these: on the one hand, the Applicant claims to have taken actual possession of the land since 1989 and has built three semi-permanent houses, planted bananas and seasonal crops on the said land. Yet, on the other hand, the Petitioner claims that the Applicant was evicted from the suit land by the deceased after she breached the contract of sale of the land. Before I could determine the application, I need to know the true state of things on the land. Towards that end, I hereby direct the EO, Meru Law Courts to visit the land and record for court's consideration, the development on the land and whether the Applicant and or any other person resides in the land. The report shall be part of record and will be taken into account in the final decision herein. The report should be filed by 31<sup>st</sup> July 2018. The ruling that was to be delivered today is arrested. It is so ordered.

**Dated, signed and delivered in open court at Meru this 11<sup>th</sup> day of July 2018.**

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**F. GIKONYO**

**JUDGE**

**In the presence of:**

Petitioner – present

Protestor – present

Mr. Carl Peters advocate for Mr. Mwarania for Protestor

Mr. Munene advocate for Petitioner.

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**F. GIKONYO**

**JUDGE**