



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT MERU**

**SUCC CAUSE NO. 226 OF 2001**

**IN THE ESTATE OF M'MAGIRI M'MIRITI**

**JOSES NKOROI M'MBURUGU .....PETITIONER**

**VS**

**M'CHABARI M'MAGIRI..... APPLICANT**

**RULING**

This matter was reserved for judgment to be delivered on 16/2/17. When the matter came up for mention on 9/1/17, Ms Kioome informed the court that the parties had been directed to file submissions. Whilst the Respondent had filed his submissions, the objection/applicant had not. The order for submissions on distribution was made on 28/10/13 and severally thereafter, the last of them being on 20/12/16.

This is a 2004 matter. It has been in our courts for 16 years now. The deceased died in 1993. Along time indeed.

When I retired to write the judgment I noted the following:-

- (a) As early as 2001, the Chief disclosed that this is a trust propriety between two brother, the diseased and his brother M'Mburugu M'Miriti.***
- (b) That both the brother had died their families behind.***
- (c) It goes without say that the beneficiaries of the estate are the children of the said two families and not only the two administrators that are before court.***
- (d) the affidavits on record have completely remained mum about the other children of the said two deceased brothers.***
- (e) the two co-administrators urge the court to distribute the estate to them alone to the exclusion of all the rest. That will be unlawful in the opinion of this court since it is clear that these are not the children of the deceased.***
- (f) In this regard, the material on record is not sufficient to deliver a fair and just judgment.***

I say so because, if the estate registered in the name of the two co-administrators ( and probably the named purchaser whose interest is clear) this may be the source of squabbles and endless disputes on the ground in that there two may never consider their siblings in future who also have equal rights. It is regrettable that these parties have come thus far and seen not to get the assistance they need.

Accordingly, under Article 159 of the Government of Kenya. I arrest the judgment and direct that the parties do appear before me on 13th March, 2017 together with the named buyer Silas Micheni Bundi they should attend court together with all their siblings.

In addition **Summons** are issued to the Chief of Abogeta location to attend Court on that day to enlighten the Court about the family of M'Mmagiri M'Miriti and Mmburugu M'Miriti who are the beneficiaries of the estate of the deceased.

It is so ordered.

**A. MABEYA**

**JUDGE**

Ruling delivered in open court in the presence of Ms Kiume and absence of the objector counsel.

**DATE AT MERU THIS 16TH DAY OF FEBRUARY 2017**

**A. MABEYA**

**JUDGE**

**16/2/17**