



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**SUCCESSION CAUSE NO. 529 OF 2006**

**IN THE MATTER OF THE ESTATE OF NAFTALY MUREGE MUTHIGANI (DECEASED)**

**JOHNSON A. MWANGI MUREGE..... PETITIONER**

**- V E R S U S -**

**OBEDE MWOYA MUREGE.....PROTESTER**

**R U L I N G**

6/4/17

Coram – T. Matheka J.,

Court Asst. Harriet

In chambers

What is before me is the undated Notice of Motion brought under certificate of urgency by Obede Muoya Murege the protester in this matter.

He seeks *inter alia* orders-

1. That the application be certified urgent and heard ex- parte.
2. That the court be pleased to issue orders restraining the LAND CONTROL BOARD KANDONGU SUB-COUNTY – MWEA WEST, KIRINYAGA COUNTY from discussing any matter relating to land parcel No. KIINE/RUKANGA/1596 on issuing any consent to subdivide/transfer or the land on 11<sup>th</sup> April 2017 until the matter scheduled for hearing on 3<sup>rd</sup> May 2017 is heard and determined.

The motion is supported by the applicant's affidavit sworn on the 6<sup>th</sup> April, 2017. The main ground for the application is that, on 27<sup>th</sup> July, 2016, this court issued confirmation of certificate of grant with regard to the estate of NAFTALLY MUREGE MUTHIGANI (deceased). In the grant the deceased's estate was shared equally among his wives – and a representative was appointed to hold each house's share in trust for the rest of the family.

In this case the applicant has deponed, and attached a copy of the confirmed grant, and a copy of a green card, where the representative of the first wife's house, one JOHNSON A. MWANGI MUREGE, caused the whole parcel KIINE/RUKANGA/1596, to be transferred to him, and has sold the same to one

KENNEDY KIMANI WARIUA. Meanwhile there is a protest pending for hearing on the 3<sup>rd</sup> May, 2017.

According to the supporting affidavit, the respondent intends to appear before the land control board Kagundu Mwea West on 11<sup>th</sup> April, 2017 with regard to the said transaction.

I have perused the Notice of Motion, the supporting affidavit and the certificate of urgency. I have perused the court record. I order: -

1. That the Notice of Motion supported by the certificate of urgency dated 6<sup>th</sup> April, 2017 be certified as urgent.

2. That the LAND CONTROL BOARD, KANDONGU MWEA WEST KERUGOYA SUB-COUNTY be and is hereby restrained from discussing land parcel No. KIINE/RUKANGA/1596 or issuing any consent to any transaction regarding the parcel on 11<sup>th</sup> April, 2017 at any time before the hearing and determination of the protest coming for hearing on 3<sup>rd</sup> May, 2017. That this application be served within 7 days from today's date. That respondent to file and serve a response within 14 days from date of service.

That the application be heard inter partes on 3<sup>rd</sup> May, 2017 instead of or together with the protest as the court may deem fit.

Orders accordingly.

**T. MATHEKA**

**JUDGE**

**6/4/2017**