



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
SUCCESSION CAUSE NO. 385 OF 2013

**IN THE MATTER OF THE ESTATE OF THE LATE CECILIA KIUNGA MUGUNA -
DECEASED**

SULEIMAN MUTEGI ALI

AND JERIKA NTHIORI M. IKIUGU.....PETITIONERS

VS

DANIEL GACHANGI NDIRANGU.....OBJECTOR

RULING

This matter came up for ruling in application dated 31st March 2014 brought up by petitioner through Counsel Gregory Mutuma Muthuri seeking orders to restrain Daniel Gachigi Ndirangu from intermeddling with the estate of the deceased by constructing/Developing building structures on parcel of Land No. Ntima/Ntakira/4742 pending inter parties hearing and determination of application.

Suleiman Mutegi Ali in supporting affidavit said Land No. 4742 was registered in his late mothers name and that the Respondent Daniel Gachigi Ndirangu was a total stranger to the estate and should be restrained from any dealings on the land.

He annexed photographs of ongoing construction which he wanted to be stopped.

The Respondent filed Replying Affidavit sworn on 26th September 2014 annexing Land purchase agreement between him and the deceased dated 12th April 2012 in which he was to purchase a portion of parcel of Land No. Ntima/Ntakira/2778 to unit 25 x 75 feet at Kshs 600,000/= and he paid to the deceased Kshs 350,000/= in cash. The deceased also acknowledged receipt of Kshs 129,500 from the 2 purchases which was according to the Respondent and Moses Marete the deceased husband and Naftaly Kathurima as well as Consolata Kanana was used to construct a decent house for the deceased. There is evidence the Respondent gave out money for payment of Hospital bill for the deceased at Consolata Mission Hospital Nkubu. Naftaly Kathurima the son to the 2nd petitioner swore and said the 1st petitioner had not notified his mother of the petition in which she is joint as co-petitioner and therefore she was not aware of the process.

In consideration of the affidavits in support of the application and in response to the application I do find that the Respondent has a valid claim in the estate as purchaser with interest.

He purchased portion of land registered in the name of the deceased and her husband, her sister Consolata Kanana, her nephew Kathurima who is son to 2nd Petitioner have strongly supported his cause.

I do find that petitioner's application cannot stand. The Respondent is entitled to 25 x 75 feet out of parcel of land No. Ntima/Ntakira/2778. In the circumstances Daniel Gachigi Ndirangu will be joined as Administrator to the estate of Cecilia Kiunga Muguna for purposes of completing the succession cause herein and distributing the estate to the rightful beneficiaries/dependants. Parties should not file unnecessary applications which don't get to the substance of the cause thus causing unnecessary delays. Costs of the application to be borne by applicant.

Ruling Signed, Delivered and Dated this 8TH Day of JUNE 2017

HON. A.ONG'INJO

JUDGE

In the presence of:

C/A: Penina

Applicant:- Mr Igweta Advocate

Respondent:- Ms Kiome Advocate

HON. A.ONG'INJO

JUDGE