



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
MISC. SUCCESSION CAUSE NO. 95 OF 2008

In the matter of the Estate of *NYAGA NJUE Alias NYAGA ZACHARIA (Deceased)*

JOHNSTONE NJERU NYAGAAPPLICANT/CITOR

V E R S U S

PETER ITA.....RESPONDENT/CITEE

R U L I N G

1. This is a citation by the Applicant/Citor Johnstone Njeru Nyaga against the respondent/Citee Peter Ita filed on 27/08/2008.
2. The citor in his citation states that the deceased Nyaga Njue alias Nyaga Zacharia died on the 17th day of July, 2003 leaving the citee Peter Ita as the only heir of the estate and that its only the citee who can take out letters of administration intestate.
3. The citee states that the deceased during his lifetime, sold to him land reference number LR. Mbeere/Kirima/1599 but had not signed the relevant documents. He has since approached the citee to take out letters of administration in order to execute the necessary documents on behalf of the deceased.
4. However, the citee has been reluctant to take up that responsibility. The citee was duly served with the citation but did not file a reply he was also served with the hearing notice on 24/6/2014 at Kiandegwa village, Kirima sub-location of Mbeere South District. The citee did not attend court for hearing of this citation. The citation therefore proceeded unopposed.
5. During the hearing the citor testified that he bought the land from the deceased in 1987 and immediately took possession. He had developed the land and uses it to date. The deceased died in the year 2003 several years after the citor had taken possession.
6. It was further stated that the deceased had no wife nor children and that his only survivors are the brothers including the citee herein. He produced copies of the sale agreement between him and the deceased.
7. The agreements shows that the deceased agreed to sell him Plot No. 1599 at Kirima for Kshs.15,000/= . The consideration was paid in 14 installments. A new bicycle was exchange for value of Shs.3,400/= as part of the consideration and forming one installment.
8. The citor prays that since the citee failed or neglected to reply to or to attend hearing of this citation, the court should grant him orders to file the succession cause to facilitate the transmission of the land to him.
9. In the absence of any opposition to the citation and the citor having produced documents to demonstrate his interest in the estate, I find that these proceedings should be determined in favour of the citor.
10. I therefore allow the citation by granting orders to the citor to file a succession cause in respect of the estate of Nyaga Njue alias Nyaga Zakaria.
11. It is hereby so ordered.

DELIVERED, DATED AND SIGNED AT EMBU THIS 10TH DAY OF MAY, 2016.

F. MUCHEMI

J U D G E

In the presence of:-

Ms. Muriuki for Kathungu for Applicant

Applicant present in person