



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT EMBU

SUCCESSION CAUSE NO. 878 OF 2002

IN THE MATTER OF THE ESTATE OF MATAKU MURUAMIU alias MUTUKU MURIAMIU

JESICA MUTHONI.....APPLICANT/PETITIONER

VERSUS

WILSON NYAGA MUTAKU

SAMUEL NJERU

NANCY MUTITU

MARY MARIGU.....RESPONDENTS

JANE WANJA

BEATRICE MURUGI

RULING

1. This application which was brought by summons proceeded in the absence of the respondents/objectors after I was satisfied that they were properly served and had adequate notice.
2. In support of her application to remove the restriction placed against land parcel No. Kyeni/Kigumo/367 on 1st February 2011 by the objectors, the applicant has relied on the following grounds. Firstly, she states that the matter was concluded way back on 12th April 2016 and that there is nothing pending in court. Secondly, the objectors placed the restriction against the suit land during the pendency of this suit. And finally she states that the confirmed grant needs to be implemented so that the rightful beneficiaries can be given their shares to the estate.
3. The applicant's application is grounded on her supporting affidavit. In that affidavit, she has deponed that there is no application pending in this matter, since the ruling dismissed the respondents' application for revocation of grant on 12th April 2016. She also deponed that the respondents through their advocate placed a restriction in respect of the suit land which restriction is still in force. She has further deponed that this restriction should be removed to enable her to fully implement the grant.
4. I have considered the application and I find that it is unopposed. I find that the confirmed grant has not been challenged. I also find that the placing of the restriction in respect of the suit land is not justified.
5. In the circumstances, I hereby set aside the restriction. I hereby grant the applicant's application in

terms of prayer No. 1 of the *ex parte* summons.

6. There will be no orders as to costs.

RULING DATED, SIGNED and DELIVERED in open court at **EMBU** this **5th** day of **JULY 2016**

In the presence of Ms Muthoni holding brierf for Mr. E K. Njagiand in the absence of the respondents

Court clerk Njue

J.M. BWONWONGA

JUDGE

05.07.16