



REPUBLIC OF KEANYA

IN THE HIGH COURT OF KENYA

AT KITALE

SUCCESSION CAUSE NO. 126 OF 2003

IN THE MATTER OF THE ESTATE OF KEFA MAUNDA KIBUNGUCHI.....DECEASED

JULIUS KISABULI MAUNDA.....APPLICANTS/OBJECTORS

BEN KHAMALA MAUNDA.....APPLICANT/OBJECTORS

VERSUS

STANLEY MISIGO MAUNDA.....RESPONENT/PETITIONER

RULING

This is an application by the respondent dated 29/6/2016 for the following orders;

- 1) There be stay of prosecution of Bungoma ELC No. 225 of 2014 pending the hearing and determination of this summons.
- 2) The grant issued on 26/1/2004 and confirmed on 13/11/2008 be revoked.

Basically all the applicants are saying in their replying affidavit sworn on 29/6/2016 is that they were not involved in the earlier exercise and that the signatures on record are forgeries. They further aver that there are other purchasers of the suit property who are being harassed by the respondent through filing of suit No. Bungoma ELC No. 225 of 2014 and yet they are recognised as purchasers for value of the land.

The respondent did not file any document to contest the application. All the parties herein are related, namely the sons of the deceased. Section 76 of the Succession Act provides that in such a situation where the applicant failed to disclose material facts or acted without the consent of the others this court is entitled to act through such an application or suo moto.

In the absence of any response by the respondent I take it that all that the applicants stated are true. They were not involved in the entire exercise of succeeding the deceased estate.

In the premises the grant issued on 26/1/2004 and confirmed on 13/11/2008 is hereby set aside with all the attendant consequences.

Costs in the cause.

Delivered this 5th day of December 2016.

H.K. CHEMITEI

JUDGE

In presence of ;

Chebii for the Objector

No appearance for the Respondent

Kirong – Court Assistant