



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**SUCCESSION CAUSE NO. 50 OF 1987**

**IN THE MATTER OF THE ESTATE OF NDUATI KAMAU (DECEASED)**

**RULING**

1. The Summons for determination is dated 3<sup>rd</sup> October 2014. It seeks in the main stay of proceedings in this cause, especially the application dated 23<sup>rd</sup> July 2014, pending hearing and determination of **Thika CMC ELC No. 31 of 2014**. There is also a prayer for orders to restrain certain activities on Loc. 16/Kigoro/1735.
2. It is brought at the instance of Jackson Kamau Nduati, who swore an affidavit in support on 3<sup>rd</sup> October 2014. He describes himself as “an applicant” of the estate of the deceased. He explains that the application dated 23<sup>rd</sup> July 2014 is brought on behalf of a school called Kiangigi Nursery School, which had acquired a portion or the whole of Loc 16/Kigoro/1735 from the deceased in 1965 for a sum of Kshs. 7000.00. The purchase price was not paid in full, for there is a balance of Kshs. 2,290.00 outstanding since 1979. At confirmation, the property was confirmed in favour of the school, but the estate wants the vesting of the property to the school delayed until the full purchase price is paid.
3. The response to the application was in the form of grounds of opposition dated 15<sup>th</sup> November 2014. The administrators are accused of having acted contrary to the confirmation orders, even though they have not challenged the said orders in any way. They are also accused of perpetrating fraud.
4. The application was argued before me on 16<sup>th</sup> December 2014 by Mr. Mathenge. Mr. Nguring’a replied. Both gave vent to the arguments placed before me in the papers filed in court.
5. Although I am being asked to stay proceedings with respect to the application dated 23<sup>rd</sup> July 2014 and to stop activities on the ground on Loc. 16/Kigoro/1735 on account of a suit pending at the Thika Law Courts, being **Thika CMC LC No. 31 of 2014**, I have no evidence before me that the said suit exists. The pleadings in respect of the said suit have not been attached to the affidavits sworn in support of the instant application. I cannot therefore order stay of proceedings on account of a suit whose existence has not been established.
6. The application dated 3<sup>rd</sup> October 2014 is without merit. It is hereby dismissed with costs.

**DATED, SIGNED and DELIVERED at NAIROBI this 2<sup>nd</sup> DAY OF October, 2015.**

**W. MUSYOKA**

**JUDGE**