



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

**SUCCESSION CAUSE NO. 749 OF 2007**

**IN THE MATTER OF THE ESTATE OF KATIMBA IMBIAKHA ..... DECEASED**

**BELIA KHAYANGA IMBIAKHA ..... PETITIONER**

**V E R S U S**

**MUSA IMBIAKHA KATIMBA ..... OBJECTOR**

**R U L I N G**

This court made its ruling on the 25.7.2013 and distributed the deceased's estate amongst the beneficiaries. The objector, **MUSA KATIMBA** has filed an application dated 28.1.2014 seeking stay of execution of the court orders pending the hearing and determination of his intended appeal. The application is supported by his affidavit sworn on the same date. On the other hand the petitioner filed an application dated 19.12.2013 seeking to have the District surveyor visit the estate and distribute it as per the court orders.

The two applications were argued together. Counsel for both parties relied on their respective applications and replying affidavits. I have gone through the two applications and note that the objector is not satisfied with the court ruling. The judgment was delivered almost one year ago by now and it is not clear what is the status of the intended appeal. Since I do recognize the objector's right to pursue his appeal, I will grant stay of execution orders for a period of 90 days from today and order that the proceedings be typed and handed over to the objector upon payment of the requisite fees. After the expiry of 90 days the petitioner shall be at liberty to execute the court orders and the surveyors shall be at liberty to effect the confirmed grant. Each party shall meet his own costs.

Delivered, dated and signed at Kakamega this 10<sup>th</sup> day of July 2014

**SAID J. CHITEMBWE**

**J U D G E**