

REPUBLIC OF KENYA

IN THE HIGH COURT AT KAKAMEGA

SUCCESSION CAUSE NO: 380 OF 2013

IN THE MATTER OF THE ESTATE OF ABUTALO MUSUNGU
BULALO.....DECEASED

AND

HENRY OMUSENJERI MUSUNGU.....PETITIONER/RESPONENT

VERSUS

REUBEN ANGACHI OKOYANA.....OBJECTOR/APPLICANT

RULING

The application dated 8th August, 2013 is seeking an order of injunction against the petitioner in relation to 1 $\frac{3}{4}$ acres of land out of plot number **BUTSOTSO/ESUMEYIA/621**.

The application is supported by the applicant's affidavit parties agreed to argue the application by way of written submissions. The applicant contends that he has been all along occupying the portion of land as it was given to him by the deceased.

He helped to pay school fees for the children of the deceased and he was given that portion and has developed it. The petitioner has tried to evict him from the portion of land and has brought prospective purchasers he would like the petitioner to be restrained before the succession cause is finalized.

The applicant maintains that he lives on the suit land with his family and filed a citation against the petitioner which triggered the filing of this cause. I have not seen a replying affidavit or submissions by the petitioner. Since the objector contends that he has been living on the suit land with the authority of the deceased I do find that the applicant has established a prima facie case with probability of success against the petitioner. He would suffer irreparable damage if the orders are not granted. I find the application to be merited and the same is granted as prayed.

Costs shall follow the outcome of the main suit.

Dated, signed and Delivered at Kakamega this 3rd day of July 2014.

SAID J. CHITEMBWE

JUDGE