



**REPUBLIC OF KENYA**

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

**SUCCESSION CASE NO E012 OF 2022.**

**IN THE MATTER OF THE ESTATE OF ANASTASIUS KARATAI KABUTE**

**(DECEASED)**

**ROSEMARY WANJIKU KARIUKI .....1<sup>ST</sup> APPLICANT**

**MICHAEL NYAGA KARATAI.....2<sup>ND</sup> APPLICANT**

**RULING**

1. The Counsel for the parties rely on the affidavits filed herein in support and in opposition to application dated 26.2.2025. The application seeks stay of proceedings in this suit pending the hearing and determination of Kerugoya ELC Appeal No. E062 of 2024.
2. The appeal relates to ownership and alleged trust on on LR Ngariama/Merichi/1001 registration in the name of the petitioner ANN WANJIRA MURIUKI and beneficial interest claimed by ROSEMARY WANJIKU KARIUKI, the 1<sup>st</sup> applicant herein.
3. The parcel of land is not set out in the petitioner's Petition dated 14.5.2022 but it is explained in the supporting affidavit of the applicant which asserts an oral will where she was awarded L.R NGARIAMA/MERICHI/1001 family land registered in her name of the Petitioner on consideration that she was not entitled to benefit from NGARIAMA/LOWER NGARIAMA/157 which comprises the estate of the Deceased person (and it shown as one of the assets in the Petition dated 14.5.2022.)
4. The applicant submits that the "issue of ownership of L.R NGARIAMA/MERICHI/1001 (which gave rise to NGARIAMA/MERICHI/3183 and 3184 is central to the determination of the distribution of LR NGARIAMA/LOWER NGARIAMA/157.
5. The Court considers that on determination of the appeal on the question of ownership of the parcel NO. MERICHI/1001 will lead to the ascertainment of the respective shares to be taken by the Petitioner and or the applicant in the distribution of the estate of the

Deceased in terms of section 42 of the Law of Succession Act and for purposes of confirmation of Grant under section 71 of the Act.

6. It is important, therefore, to hold the confirmation and distribution of the Deceased's estate pending the determination of the issue of ownership and trust on the parcel of land number LR NGARIAMA/LOWER NGARIAMA/1001 by the appeal in Environment and Land Court - Kerugoya ELC Appeal No.E062 of 2024.

**ORDERS:**

7. Accordingly, for the reasons set out above, the application dated 26/2/2025 is granted as prayed.

8. There shall be no orders as to costs.

*Orders accordingly.*

**DATED AND DELIVERED THIS 28<sup>TH</sup> DAY OF OCTOBER 2025.**

**EDWARD M. MURIITHI**

**JUDGE**

**APPEARANCES:**

Ms. Khisa for Mr. Kamau for the Applicant.

Ms. Muturi for Mr. Magee for the Respondents.