



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

MISC APPLICATION NO. 19 OF 2018

**GITUMA JUSTUS MWITI (Suing as the legal representative of the
Estate of Ikunyua Iringo) - (Deceased)APPLICANT**

VERSUS

M'IKIAO M'IRINGO1ST RESPONDENT

COUNTY GOVERNMENT OF MERU

(formerly MUNICIPAL COUNCIL OF MERU).....2ND RESPONDENT

NATHANIEL KITHINJI.....3RD RESPONDENT

THE MERU CENTRAL LAND REGISTRAR.....4TH RESPONDENT

THE ATTORNEY GENERAL..... 5TH RESPONDENT

RULING

1. Vide an application dated 17.7.2018, the applicant, Gituma Justus Mwiti (suing as the legal representative of the estate of Mbogori Iringo, estate of Titus Ithambu Iringo and estate of Ikunyua Iringo –All Deceased) seeks orders directing the 4th respondent to lift/remove the prohibitory orders on land parcel no. Nyaki/Mulathankari/767, 830 and 828.
2. Applicant avers that there are prohibitory orders over the said property pending the hearing and determination of HCC No. 93 of 2012. Applicant avers that he desires to have the estate of deceased persons distributed but this is not possible when the parcels have prohibitory orders.
3. The application was heard orally on 5.3.2019.
4. Applicant avers that it would be strenuous for him to file the application in the H.C.C 93/2012 as the estate was not a party in that suit.
5. For the 2nd respondent, it has been argued that the application ought to be filed in the HCC 93/12 where the prohibitory orders were issued and that applicant should seek to be substituted as a party in that suit.
6. I have considered all the arguments raised herein. I have also perused the file No. Meru HCC 93/12, whereby the suit was dismissed on 22.10.2015. There being no suit, then applicant would surely not have any recourse in that other file No. 93/12.
7. I also note that after the dismissal of that suit, there was a discharge order dated 8.3.2016 of the inhibition orders but this was only in respect of parcel no. 829. However, the initial orders had been given in respect of parcels no. 275, 767, 828, 829 and 830.
8. In the circumstances, I find that the application dated 17.7.2018 is merited and is allowed with no orders as to costs.
9. This ruling is to apply in respect of Misc file no. 20/18 and 21/18 where the removal of prohibitory orders is to apply to parcels;

- Nyaki/Mulathankari/830

- Nyaki Mulathankari/828

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 25TH DAY OF APRIL, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Miss Nyaga holding brief for respondent

Applicant

HON. LUCY. N. MBUGUA

ELC JUDGE