



**In re LWW (Miscellaneous Civil Application E001 of 2023)
[2023] KEELC 16407 (KLR) (23 March 2023) (Ruling)**

Neutral citation: [2023] KEELC 16407 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
MISCELLANEOUS CIVIL APPLICATION E001 OF 2023**

AK BOR, J

MARCH 23, 2023

**IN THE MATTER OF SECTIONS 17, 18, 56 AND 57 OF THE TRUSTEES ACT
AND
THE SALE OF LAIKIPIA SOLIO RANCH/XXX(V7)**

IN THE MATTER OF

LWW APPLICANT

RULING

1. The applicant brought the originating summons dated January 11, 2023 under article 53 of the Constitution and order 37 of the Civil Procedure Rules seeking to have the land known as Laikipia Solio Ranch/xxx (V7) measuring 0.2 hectares sold and the sale proceeds applied towards the education needs of the minors and the development of the parcel of land where the family currently resides.
2. The application was made on the grounds that the applicant holds the subject property in trust for herself and her three children namely MNM, CWM and KKM, who are minors. Following a succession cause, the land was vested in her name in her capacity as the widow of the deceased and trustee for the minor children. Being overwhelmed by her children's school fees, she had identified a potential buyer and wished to sell the subject land so that she can develop the plot where the family resides and meet the welfare needs of the minors especially their educational needs.
3. The applicant swore the supporting affidavit and exhibited the certificates of birth for her children, the school fees structures and the sale agreement for the parcel of land where the family resides.
4. When the matter came up in court on February 9, 2023, the applicant's advocate sought leave to file a further affidavit and attach other relevant documents. The court granted leave and the applicant's further supporting affidavit was filed on February 22, 2023. The agreement for sale dated June 6, 2022 for plot no xxx (Mbari ya Mute Kiandu Kanyoni S.H.G) and the rectified certificate of confirmation of grant dated August 23, 2019 showing that she holds the subject property in trust for the three minor



children were exhibited to the affidavit. She also attached a letter from the Chief Gakawa location confirming that she bought the plot where the family resides from Monica Ngera.

5. The issue for determination is whether the court should grant the orders sought in the originating summons dated January 11, 2023. The court notes that the applicant did not produce a certificate of title to confirm that the applicant had already transferred the subject property to her own name.
6. From the rectified confirmation of grant which the applicant exhibited to her further supporting affidavit, it is apparent that the applicant holds plot No V7 at Solio Ranch Settlement Scheme in trust for her children, who are minors.
7. Some of the duties of a personal representative under section 83 of the Law of Succession Act are to produce to the court a full and accurate inventory of the assets and liabilities of the deceased and a full account of dealings within six months of the date of the grant; to complete the administration of the estate except for the continuing trusts within six months of the date of confirmation of the grant; and to produce to the court a full and accurate account of the completed administration.
8. In light of the duties which the law imposes on a personal representative under the Law of Succession Act, it is prudent and proper that the application brought by the applicant is heard and dealt with in Nyeri Chief Magistrates Court succession cause No 246 of 2017 being the succession cause in which the grant of administration of her late husband's estate was issued.

DELIVERED VIRTUALLY AT NANYUKI THIS 23RD DAY OF MARCH 2023.

K. BOR

JUDGE

In the presence of: -

Mr. Kiogora Mugambi for the Applicant

Ms. Stella Gakii - Court Assistant

