



REPUBLIC OF KENYA



**In re Estate of M'imathiu M'angare (Deceased) (Succession Cause
150 of 2001) [2022] KEHC 11748 (KLR) (31 March 2022) (Ruling)**

Neutral citation: [2022] KEHC 11748 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
SUCCESSION CAUSE 150 OF 2001
EM MURIITHI, J
MARCH 31, 2022**

BETWEEN

REBECCA KITHIRA PETITIONER

AND

GERVASIO GATOBU MATHIU 1ST OBJECTOR

JEREMIAH NKUUBI MATHIU 2ND OBJECTOR

GEOFFREY MUGAMBI 3RD OBJECTOR

CICILIA KINYA MATHIU 4TH OBJECTOR

JERICA KANANU 5TH OBJECTOR

RULING

1. Upon hearing counsel for the parties it is clear that the application by Summons dated 22/09/2021 is not opposed by the Respondent/Petitioner.
2. The only dispute is the denial by the Petitioner that she has refused to produce and or avail the original title deed of the parcel of Land Nyaki/Kabune/794.
3. The Applicant has not demonstrated on a balance of probability that the original title was in possession of the Petitioner who has refused to sign the transfer documents.
4. The Petitioner by Affidavit sworn on 10/2/2022 has deponed that she had already executed all the transfer document and sent them to the Applicant's Counsel and that the original title documents was in the custody of Gervasio Gatobu Mathiu who is represented by the applicant.
5. Consequently, the order that commends itself to the court is to allow the prayer for dispensation of the production of the original title deed as prayed by the Applicant but to mulct them in costs for making the application to which the Petitioner has had to defend in this respect.



Orders

6. Accordingly, for the reasons set out above, the court makes the orders as follows:-

- 1) Prayer No. 1 of the Summons dated 22/9/2021 is granted as prayed.
- 2) The Petitioner shall have the costs of the application to be paid by the Applicant as agreed between the parties or taxed by the taxing master of the court in default.

7. File closed.

DATED AND DELIVERED 31st DAY OF MARCH 2022.

EDWARD M. MURIITHI

JUDGE

