



In re Estate of Joseph Gichanga Kimani (Deceased) (Succession Cause 1088 of 2005) [2022] KEHC 14229 (KLR) (Family) (26 October 2022) (Ruling)

Neutral citation: [2022] KEHC 14229 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

FAMILY

SUCCESSION CAUSE 1088 OF 2005

AO MUCHELULE, J

OCTOBER 26, 2022

IN THE MATTER OF THE ESTATE OF JOSEPH GICHANGA KIMANI (DECEASED)

BETWEEN

ALEXANDER KIMANI GICHANGA APPLICANT

AND

RISPER WAMAITHA GICHANGA RESPONDENT

RULING

1. The applicant Alexander Kimani Gichanga and the respondent Risper Wamaitha Gichanga at the co-administrators of the estate of the deceased Joseph Gichanga Kimani who died intestate on 26th March 2005. The deceased left two houses and various properties. On 15th June 2020 court distributed the estate of the deceased to the respective beneficiaries and issued a certificate of confirmation which has not been executed.
2. The respondent appealed the decision. The stay of execution that this court granted on 23rd February 2021 has lapsed. She has not offered any explanation why the decision of the court should not be implemented. In the application dated 2nd July 2021 it was stated by the applicant that she has refused to avail the original title deeds and letters of allotment for Kajiado/Kisaju/641, Ngong/Ngong/18618; 18619, 19848 and 21013, plot No. 141/Business Ongata Rongai and Plot No. 196 Kasasi for the purpose of transmission. There was no response to the application as no replying affidavit was filed. The applicant sought that the court does order the respondent to avail the documents, and that the Deputy Registrar of the Court be empowered to execute all the necessary documents on behalf of the respondent to enable the transmission as she had declined to cooperate.
3. I allow the application, and direct the respondent to release to the Deputy Registrar of this Court all the above title documents to enable the respective benefits of the beneficiaries as contained in the



certificate of confirmation to be realised. The release should be within 21 days. If she does not release the documents as directed, the relevant Land Registrar is authorised to proceed with the registrations nonetheless. The Deputy Registrar shall sign all the relevant documents to enable the transfers. Costs shall be borne by the respondent.

4. In view of the orders above, I find no reason to deal with the injunction application dated 29th September 2021, except that any beneficiary shall be at liberty to sue the respondent for any eviction and/or damages if his/her share is trespassed into or interfered with following the transmission.

DATED AND DELIVERED ELECTRONICALLY AT NAIROBI THIS 26TH DAY OF OCTOBER 2022

A.O. MUCHELULE

JUDGE

