



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**FAMILY DIVISION**  
**SUCCESSION CAUSE NO. 703 OF 2000**

**IN THE MATTER OF THE ESTATE OF GICHANA KARANJA (DECEASED)**

JOHN KIMANI NGUGI.....1<sup>ST</sup> APPLICANT

GEORGE NJUGUNA KANYARI.....2<sup>ND</sup> APPLICANT

VERSUS

PETER KARANJA KANYARI.....1<sup>ST</sup> RESPONDENT

GEORGE NGUGI KARIUKI.....2<sup>ND</sup> RESPONDENT

STEPHEN GICHUHI KARIUKI.....3<sup>RD</sup> RESPONDENT

DISTRICT LAND SURVEYOR.....4<sup>TH</sup> RESPONDENT

**RULING**

1. The deceased Gichana Karanja died intestate on 3<sup>rd</sup> June 1986, leaving a parcel of land Limuru/Ngecha/1327 measuring 3.69 acres. He was survived by six children:-

- (i) Peter Karanja Kanyari (1<sup>st</sup> respondent);
- (ii) John Kimani Ngugi (1<sup>st</sup> applicant);
- (iii) George Njuguna Kanyari (2<sup>nd</sup> applicant);
- (iv) Maria Wairimu;
- (v) Irene Wabai Kamau; and

(vi) the late Margaret Wambui Kariuki who was survived by George Ngugi Kariuki (2<sup>nd</sup> respondent), Stephen Gichuhi Kariuki (3<sup>rd</sup> respondent), Peris Kariuki and M/s Kariuki.

2. The 1<sup>st</sup> respondent was on 5<sup>th</sup> May 2003 appointed the administrator of the estate of the deceased. The grant was confirmed on 21<sup>st</sup> September 2016. The estate was shared as follows:-

- (1) 1<sup>st</sup> respondent – 0.98 acres;
- (2) 1<sup>st</sup> applicant – 0.98 acres;
- (3) 2<sup>nd</sup> applicant – 0.98 acres; and

(4) the family of the late Margaret Wambui Kariuki 0.75 acres to be registered in the name of the 2<sup>nd</sup> respondent to hold in trust for his brothers and sisters.

3. It is clear from the proceedings that since the grant was confirmed, several attempts have been made to survey and demarcate the deceased's land to enable the beneficiaries to get what is due to them and to each get the title document for his or her portion. From the affidavits on record, every time surveyors have visited, either some parties will not attend or a noisy and hostile environment is created to frustrate the exercise. Some parties have occupied more land than what the certificate of confirmation has offered. Parties have been in settlement for a long time and there is real fear that the sharing in the certificate of confirmation will adversely affect them.

4. One, the decision rendered on 21<sup>st</sup> September 2016 sharing the estate of the deceased to the respective beneficiaries has not been challenged, either on appeal or review. It therefore binds all the parties, irrespective of the present occupation status.

5. Secondly, under **section 83(i)** of the **Law of Succession Act (Cap. 160)**, the 1<sup>st</sup> respondent is under a duty to complete the administration of the estate of the deceased by making sure that each beneficiary of the estate gets his or her entitlement as shown in the certificate of confirmation, and to produce to court a full and accurate account of the completed administration. Under **section 76(d)(ii)** and **(iii)** of the **Act**, the court may on its own motion or upon application revoke the grant that was issued to the 1<sup>st</sup> respondent if he fails to share to each beneficiary his or her entitlement as ordered by the court.

6. This being the case, I determine the application dated 7<sup>th</sup> June 2019 by the applicants in the following terms:-

(a) the Kiambu District Land Surveyor shall within 45 days from today, with notice to Mr Kiania Njau for John Kimani Ngugi and George Njuguna Kanyari, M/s Victoria Wambua for the family of the late Margaret Wangui Kariuki and M/s Njiru Kairu & Co. Advocates for Peter Kaanja Kanyari, move to parcel LR Limuru/Ngecha/1327 and share it out in accordance with the certificate of confirmation herein.

(b) the OCS Tigon Police Station and the area local chief shall provide security during the exercise;

(c) if within 90 days from today LR Limuru/Ngecha/1327 shall not have been divided as above, the grant issued to Peter Karanja Kanyari on 5<sup>th</sup> May 2003 and confirmed on 21<sup>st</sup> September 2016 shall stand revoked and a fresh joint grant issued and confirmed to John Kimani Ngugi, George Njuguna Kanyari and George Ngugi Kariuki with instructions to complete the administration of the estate of the deceased; and

(d) costs of the application shall be borne by Peter Karanja Kanyari.

**DATED and DELIVERED NAIROBI this 15<sup>TH</sup> day of FEBRUARY 2021.**

**A.O. MUCHELULE**

**JUDGE**