



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MERU**  
**SUCCESSION CAUSE NO. 175 OF 2011**  
**IN THE ESTATE OF STEPHEN M'MUKIRI M'NCAU**  
**GEOFFREY MBURUGU MUKIRI**  
**SILAS GITOBU M'MUKIRI .....PETITIONERS**  
**VERSUS**  
**ISABELLA KATHURE RUBI.....APPLICANT/INTERESTED PARTY**  
**RULING**

The deceased herein on 12<sup>th</sup> August 2007 and was survived by the wife Julia Karoki, 5 daughters and 4 sons as per the letter dated 13<sup>th</sup> August 2010 from Chief of Nthimbiri location;

From the evidence of Geoffrey Mburugu the 1<sup>st</sup> Administrator herein and it is not indispute the deceased person subdivided his parcel of land No. Ntima/Igoki/620 into several portions namely.

- a) Ntima/Igoki/710
- b) Ntima/Igoki/711
- c) Ntima/Igoki/712
- d) Ntima/Igoki/713
- e) Ntima/Igoki/714
- f) Ntima/Igoki/715
- g) Ntima/Igoki/716
- h) Ntima/Igoki/717
- i) Ntima/Igoki/718

That the portions of land were shared out by the deceased as follows:-

- a) Ntima/Igoki/710 – sold to Mugambi
- b) Ntima/Igoki/711 – given to Makena – 0.030 ha (0.07 acres)
- c) Ntima/Igoki/712- given to Catherine – 0.030 Ha (0.07 acres)

d) Ntima/Igoki/713- given to Isabella – 0.030 Ha (0.07 acres)

e) Ntima/Igoki/714- given to Geoffrey Mburugu – 0.615 Ha (1.50 acres)

f) Ntima/Igoki/715 -given to Justus Nturubi – 0.615 Ha (1.50 acres)

g) Ntima/Igoki/716-given to Henry Mugambi – 0.615 Ha (1.50 acres)

h) Ntima/Igoki/717- given to Eunice Kajuju – 0.030 Ha (0.07 acres)

i) Ntima/Igoki/718 – remained in the name of the deceased but meant for the deceased persons widow Juliah Karoki – 0.412 Ha (1.02 acres)

The 1<sup>st</sup> Administrator admitted that even if the deceased persons daughters shared LR 718 on their own equally their shares would still be less than that given by the deceased to the sons. Silas Gatobu M’Mukiri said the deceased gave him LR Nthimbiri/Igoki/321 measuring 3.25 acres and he didn’t want any share from LR 718 but he prayed that LR 718 be shared equally amongst the sons and daughters of the deceased .

The issue in contention is whether LR 718 – Ntima/Igoki – should be shared by Makena, Catherine, Isabella, Geoffrey, Justus and Henry equally or whether the same should be given to the daughters entirely to share since the sons of the deceased had benefitted inter vivos from bigger portions of land.

The view of the court is that the deceased persons home and house should be preserved for future use and visit by all family members and the Administrators herein as well as Isabella Kathure Rubi are charged with the duty of mobilizing the rest of the deceased persons children to maintain 1/8 of the land on which the home and house is situate. In that case 1/8 of the land will be registered in the name of the 3 in trust for the rest of the family. The balance of land of the land 0.895 acres to be shared equally amongst the 6 beneficiaries i.e. 0.15 acres each.

There shall be no orders as to costs.

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**HON. A.ONG’INJO**

**JUDGE**

**RULING SIGNED, DELIVERED AND DATED THIS 28<sup>TH</sup> DAY OF FEBRUARY 2019.**

**In the presence of:**

CA:-

Mr Nyenyire Advocate for Petitioner

Mr Otieno Advocate for 1<sup>st</sup> Petitioner – N/A

2<sup>nd</sup> Petitioner – N/A

Applicant:-present in person

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**HON. A.ONG’INJO**

**JUDGE**