



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NO 821 OF 2015

IN THE MATTER OF THE ESTATE OF

JOB KIPLAGAT KURGAT.....(DECEASED)

VERSUS

ANN NJERI KAMAU

ANN WAIRIMU KARANJA.....PETITIONERS

RULING

1. This application before court is dated 20/3/19. The orders sought are;

1. Spent

2. **THAT** the trust in respect of property known as Njoro/Ngata Block 2/3141 and held by the applicant in trust for her children be dissolved and the applicant be granted leave to sell the said property.

3. **THAT** the proceeds of the sale be applied to develop the parcel of land known as L.R No 6207 KAMPI YA MOTO/KAMPI YA MOTO PLOT NO 39 and the developed property be held in trust for the children.

4. **THAT** the cost of this suit be in the cause.

2. The application is housed on grounds viz;

1. **THAT** the applicant holds parcel of land known as Njoro/Ngata Block 2/3141 for herself and in trust for the children of the deceased.

2. **THAT** the property does not generate any income to the estate.

3. **THAT** the applicant wants the trust in respect to this property to be dissolved so that she can sell off the parcel of land and thereafter fund the proposed residential development on L.R NO 6207 KAMPI YA MOTO/KAMPI YA MOTOR PLOT NO 39 project for the benefit of the deceased's children.

3. It is supported by the affidavit of Ann Njeri Kamau.

4. The gist of the application/the grounds it is based on and the supporting affidavit is that Ann Njeri Kamau was issued with letters of administration of the estate of Job K Kurgat deceased.

5. Among other properties she holds property Njoro/Ngata Block 2/3141 in trust for herself and the children of the deceased. This property brings no income.

6. She proposes to dispose off the property so that she can fund the proposed development on **LR NO 6207 KAMPI YA MOTOR/KAMPI YA MOTO PLOT NO 39** project for the benefit of the deceased's children.

7. It is therefore necessary to dissolve the trust to enable the intended sale.
8. I have considered the application and the affidavit evidence. I have had due regard to the record of proceedings herein.
9. The applicant holds title No Njoro/Ngata Block 2/3141 in trust for herself and the children of the deceased as per the certificate of confirmation of grant dated 15/3/17 and as evidenced in the resultant title deed issued on 19/7/17.
10. She now proposes to embark on a residential development on LR No 6207 Kampi ya Moto/Kampi ya Moto Plot No 39. She proposes to sell Title No Njoro/Ngata Block 2/3141 to raise the necessary funds.
11. It is true for a fact that Njoro/Ngata Block 2/3141 is held in trust by her for herself and the children.
12. On the totality of the material before court, it is quite clear that the dissolution of the trust herein is in the best interests of the beneficiaries. The intended sale will only add value to the benefits by the beneficiaries and am persuaded that it is desirable that the trust be dissolved.
13. With the result that that I allow the Notice of Motion dated 20/3/19 in terms of prayers 2 and 3. Costs shall be in the cause.

Dated and Delivered at Nakuru this 20TH day of JUNE, 2019.

A. K. NDUNG'U

JUDGE