

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERUGOYA

SUCCESSION CAUSE NO. 40 OF 2013

IN THE MATTER OF THE ESTATE OF LEONARD MUCHIRA NGARE (DCD)

JANE WANJIRA MUCHIRA.....PETITIONER

V E R S U S

LIVINGSTONE NGURE MUCHIRA.....RESPONDENT

AND

TERESIA WANJIKU GICHOB.....1ST INTERESTED PARTY

JANE WANDIA GAKUYA.....2ND INTERESTED PARTY

RULING

1. I have considered the application. I find that the application is merited. One party who is an interested party will suffer prejudice as she may be affected by an order of this court without having been given an opportunity to be heard. There will be no prejudice to the respondents as they will be given an opportunity to cross-examine. This is a succession matter where issues of the parties and beneficiaries as well as distribution of the estate are very important and must be heard and determined once and for all. The issue that the case has been closed is a procedural technicality which should not bar the court from hearing substantial justice. This is the spirit of **Article 159(2)(d) of the Constitution and Section 1A & 1B of the Civil Procedure Act.**

2. I will therefore allow the application. The 1st Interested party be served within 21 days. He will be given 14 days to file a response and matter be mentioned later for directions.

Dated at Kerugoya this 24th day of July 2019.

L.W. GITARI

JUDGE

Read out in open court,

M/s Nyangati holding brief for Maina for Petitioner.

M/s Kiragu holding brief for 1st protestor.

Petitioner – present.

L. W. GITARI

JUDGE