



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**FAMILY DIVISION**

**SUCCESSION CAUSE NO. 2948 OF 2013**

**IN THE MATTER OF THE ESTATE OF TABITHA NYAMBURA KINUTHIA (DECEASED)**

**HANNAH WANJIKU.....APPLICANT**

**VERSUS**

**LUCY NJOKI GICHURU.....RESPONDENT**

**RULING**

1. The preliminary objection dated 12<sup>th</sup> September 2019 by the respondent/administrator Lucy Njoki Gichuru against the applicant Hannah Wanjiku is not sustainable. The deceased died intestate on 11<sup>th</sup> October 2001. She had 6 daughters. The administrator was one of them. She petitioned for, and was issued with, letters of administration intestate. The deceased had only one parcel Dagoretti/Rithumitu/589. Before the grant was confirmed, the administrator sold a portion of the land to the applicant. The family agreed with the sale, and at confirmation allowed the distribution to include the applicant as a beneficiary. A certificate was issued in which all the daughters and the applicant got each her portion. When the administrator refused and/or failed to transfer to the applicant her portion, the latter brought the application dated 17<sup>th</sup> October 2016 seeking that, among other things, the executive officer of this court be empowered to sign all papers to effect the transfer.

2. In short, this is not a dispute about the ownership of the plot in question. There is no outstanding dispute regarding the agreement signed between the administrator and the applicant. A court that has issued a certificate of confirmation must supervise the distribution of the estate and complete the administration of the estate by the administrator. The disputed portion is part of the estate of the deceased which the administrator has acknowledged she sold to the applicant and which she is obligated under the **Law of Succession Act** to pass on.

3. Consequently, this court has jurisdiction to hear and determine the application dated 17<sup>th</sup> October 2016. The preliminary objection dated 12<sup>th</sup> September 2019 is dismissed with costs.

**DATED and SIGNED at NAIROBI this 28<sup>TH</sup> day of OCTOBER 2019**

**A.O. MUCHELULE**

**JUDGE**