



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAIROBI**

**(FAMILY DIVISION)**

**SUCCESSION CAUSE NO 499 OF 2006**

**IN THE MATTER OF THE ESTATE OF FRANCIS MUNGAI MUCHINA (DECEASED)**

**GREGORY KAGUNYA NJOROGE.....PROTESTOR**

**VERSUS**

**SAMUEL MBURU MUNGAI**

**GEORGE KIBATHI MUNGAI.....PETITIONER/APPLICANTS**

**RULING**

1. The deceased herein Francis Mungai Muchina died in Kiambu on the 16<sup>th</sup> of November 1988 and on the 15<sup>th</sup> of May 2012 Samuel Mburu Mungai and George Kibathi Mungai sons of the deceased took out grant of representation.

2. Prior to the filing of the petition for grant of letters of administration the Objector Gregory Kagunya Njoroge had cited 4 sons of the deceased who included the administrators herein claiming a portion of the estate being **Kinganjo/Kiamwangi T.1130**. With his citation forming part of the court proceedings he filed:

- i. A land transfer duly executed and dated 27<sup>th</sup> January 1988.
- ii. A land control board consent dated 28<sup>th</sup> January 1988 giving the sale price as Kshs.40,000/=
- iii. A letter from the Chief Land Registrar's office Ministry of Lands and Settlement dated 10<sup>th</sup> June, 2004.

3. In an affidavit dated 4<sup>th</sup> March 2019 was annexed the register of the Land Control Board which indicate that on the 28<sup>th</sup> of January 1988 the board consented to the deceased transferring his title number Kiganjo/Kiamwangi/T.1130 to Gregory Kagunya Njoroge.

4. The protestor's case is that property L.R. No. Kiganjo/Kiamwangi/953 was subdivided to give rise to T.1130 which measures 80x100 which he bought at Kshs.40,000/= and he does not claim the entire parcel of land.

5. The case for the Respondents as prescribed by one of the administrators George Kibathi Mungai is that the land is L.R. Kiganjo/Kiamwangi/953 and not L.R. No. Kiamwangi T.1130 and secondly, he is not aware that his father had sold a portion thereof. He produced in evidence search certificate for L.R. No. Kiganjo/Kiamwangi/953 dated 11<sup>th</sup> January 2019 in the name of Mungai Muchina and a green card of the same date.

6. Before court are documents produced by third parties all on the face of it appear valid, though the same gave contradictory information.

7. In order for this court to dispense with justice it will require further information from the Land Control Board and the Lands office Kiambu, as no reasonable decision can be arrived at with the conflicting documents on record.

8. Consequently, I direct and order as follows:

- a. The Land Registrar Kiambu do produce before this court the entire record of L.R. No. Kiganjo/Kiamwangi/953.
- b. The Land Registrar Kiambu do produce before this court the entire record of L.R. No. Kiganjo/Kiamwangi/T.1130, and

c. The Land Control Board Gatundu do produce records if any of any subdivision on **L.R. No./Kiganjo/Kiamwangi/953**.

9. Further hearing of the matter to be on a date to be agreed upon.

**Dated and Delivered in Nairobi on this 21<sup>st</sup> day of NOVEMBER 2019.**

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**ALI-ARONI**

**JUDGE**