



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

SUCCESSION CAUSE NUMBER 452 OF 2011

IN THE MATTER OF KIBE WACHIRA KIBE (DECEASED)

MARY WANGECHI KIBE.....PETITIONER/RESPONDENT

AND

PETER WACHIRA KIBE.....APPLICANT

RULING

1. Before Court is the summons dated 25/9/2017 brought by Mary Wangechi Kibe (Applicant) seeking orders;

1. Spent

2. THAT the Honourable Court do order that the Deputy Registrar do sign the Land Board consents, Transfer Forms and Mutation Forms in place of Peter Macharia Kibe.

3. THAT costs of this application be in the cause.

2. The Application is premised on grounds;

(a) That the Court delivered its ruling on 20th July, 2017.

(b) That LR NO. BAHATI/KABATINI BLOCK 1/888 is to be shared equally between the Petitioner and the Objector.

(c) That the Objector has completely failed to co-operate with the Petitioner to give effect to the ruling.

(d) That unless the orders sought are granted, this succession cause will be in a limbo.

(e) That the Objector shall not be prejudiced in any way.

3. The gist of the grounds and the affidavit in support is that by order of Court LR NO. BAHATI/KABATINI BLOCK 1/888 is to be shared equally by the Applicant and the Respondent.

4. The Respondent has totally refused to co-operate with the Applicant to ensure survey work is done to give effect to the judgment of the Court.

5. A request that the Respondent forwards a copy of his PIN, passport size photos and a copy of identity card and his share of survey fees has not borne fruit.

6. There is no response to the application.

7. I have considered the application, the supporting grounds and affidavit on record.

8. It is true for a fact that by the ruling of this Court dated 20/7/2017, LR No. BAHATI/KABATINI/BLOCK 1/888 is to be divided equally between the Applicant and the Respondent.

9. This process would require survey work and for the transfers to take effect, each party must present copies of their PIN certificate, passport size photographs and identity card.

10. I am convinced on the material before Court that the Respondent has refused and/or neglected to provide the above items and to provide necessary signature(s) as may be required.

11. His act of omission is a drawback to giving effect to the orders of Court dated 20/7/2017 hence defeating the ends of justice.

12. The application before Court is thus meritable and will go a long way in aiding the course of justice.

13. With the result that the summons dated 25/9/2017 is allowed. Orders shall issue as follows:

(a) The Deputy Registrar do sign the land board consents, transfer forms and mutation forms in place of Peter Macharia Kibe.

(b) Costs be in the cause.

Dated and Signed at Nakuru this 29th day of May, 2018.

A. K. NDUNG'U

JUDGE