



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 3848 OF 2004**

**IN THE MATTER OF THE ESTATE OF WARONJA GACHUNGA (DECEASED)**

**RULING**

1. On 29<sup>th</sup> May 2015, I delivered a ruling on a Summons for Confirmation of grant dated 9<sup>th</sup> December 2008, wherein I postponed confirmation of the grant to facilitate the furnishing of certain information, as I had concluded that there was information that had not been availed with regard to some of the assets of the estate.

2. In compliance with the directions given in that ruling, the parties filed further affidavits on the said assets. Rahab Wambui Waronja swore her affidavit on 28<sup>th</sup> September 2015, and filed it herein on 2<sup>nd</sup> October 2015. Monicah Wambui Waronja's affidavit was sworn on 20<sup>th</sup> September 2016, and was filed herein on 21<sup>st</sup> September 2016. After the filing of the affidavits, I directed the parties to file written submissions to form the foundation for the final ruling. There has been compliance with the said directions for both sides have filed detailed written submissions.

3. I have perused both the affidavits and the written submissions. It emerges that both sides did meet after the deceased's death and agree on disposal of some of the assets, which they did dispose of by sale, and shared the proceeds. It also emerged that existence or whereabouts of some of the assets are unknown. It has also emerged that some of the assets were sold by the protestor, Rahab Wambui Waronja, before her grant was revoked.

4. From the material placed before me by the parties, it is clear that the following assets are not available for distribution, either because they were sold or their whereabouts were unknown – Ting'ang'a/Cianda/523, LR No. 12672/81, a lorry, Kiambaa/Karuri/533, Nyandarua/Karati/775, Naivasha/Maraingushi/4/658, Kijabe/Kijabe/2554 (representing a share in Mai Mahiu/Kijabe/Longonot Co. Ltd), Kwambira Plot (also known as Limuru/Kamirithu/T198), Kabete Plot, Banana Plot, five acres of land in Maragua and shares in Ndumberi Farmers C. Ltd. That leaves the property available for distribution as Kiambaa/Waguthu/1178, Kijabe/Kijabe Block 1851, Kiambaa/Karuri/T795, Nyandarua/Karati/542, Nyandarua/Karati/799, Nyandarua/Karati/1850, and Limuru/Kamirithu/T630.

5. After considering the distribution proposed by both sides as against the circumstances of this case, I shall make the following final orders:-

**a. That Kiambaa/Waguthu/1178, Kijabe/Kijabe Block 1851, Kiambaa/Karuri/T795 and Nyandarua/Karati/1850 shall devolve upon the first house, of Rahab Wambui Waronja;**

**b. That Nyandarua/Karati/542, Nyandarua/Karati/799, and Limuru/Kamirithu/T630 shall devolve upon the second house of Monicah Wambui Waronja;**

**c. That the grant of letters of administration intestate made on 20<sup>th</sup> June 2008 shall be confirmed on those terms;**

**d. That a certificate of confirmation of grant shall issue accordingly;**

**e. That the bulk of the estate is situated within Kiambu County where both parties are resident, with none of the assets being located in Nairobi, I according order that the cause be**

**transferred to the High Court of Kenya at Kiambu for final disposal; and**

**f. That each party shall bear their own costs.**

**DATED, SIGNED and DELIVERED at NAIROBI this 19<sup>TH</sup> DAY OF OCTOBER, 2017.**

**W. MUSYOKA**

**JUDGE**