



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
SUCCESSION CAUSE NO. 673 OF 1990

IN THE MATTER OF THE ESTATE OF JOSEPH GITAU RICHU (DECEASED)

SAMUEL KINYANJUI 1ST APPLICANT
EDWARD NDUNGU.....2ND APPLICANT
PETER KIAMBUTHI.....3RD APPLICANT

VERSUS

GEOFFREY RICHU.....RESPONDENT

RULING

Further to the Ruling of the Court of 7th July, 2015 on the subdivision proposals presented by the Surveyor of both the administrators and beneficiaries, the Court gave its determination based on the proposals and the confirmed grant.

Following the ruling the following issues have arisen;

1. Rachael Njeri was a sister to the Respondents. She was entitled according to the confirmed grant of 15th November, 1991 to have a share in the suit property Dagoretti/Kinoo/T.403. She is deceased and her property has not been transferred to the family.
2. Geoffrey Gitau Richu who engaged Geodata Land Surveyors and Consultants wrote to Court on 9th February, 2016 and informed the Court that from the proposed subdivision by Geomeasure Surveyors Limited which showed the road at the centre of the land, this will affect existing buildings and other development e.g the borehole. He attached photographs of the said permanent structures and asked this Court to give directions.
3. The Applicants filed a consent on 8th December, 2015 to the mode of sub-division of plot No. Dagoretti/Kinoo/600 to be distributed and be subdivided in terms of paragraph (e) of Lady Justice M. Muigai’s ruling dated 7th July, 2015.

The Court will address the matters as follows;

- a. The confirmed grant of 15th January, 1991 is to the effect that Racheal Njeri Gitau acquires Dagoretti/Kinoo/T.403 whole. The deceased’s family shall claim the suit property from the administrators of this deceased’s estate if not the family of Rachael Njeri (deceased) shall file an

appropriate application in Court against the administrators and serve them to be heard and determined by the Court.

- b. With regard to the letter dated 9th February 2016 by the Objector, the Court finds the orders of the Ruling of 7th July, 2015 have not been complied with to date. The ownership of Dagoretti/Kinoo/T- 408 has not been confirmed to this Court as required so as to inform the process of subdivision to be applied with regard to Dagoretti/Kinoo/600.

Secondly the letter of 9th February, 2016 should be formally filed in Court as an application for review of the Court's Ruling of 7th July, 2015 and served to the other parties for this Court to hear and determine.

In default of any review of the said Ruling and/or appeal lodged against the Ruling the latter is dismissed until filed appropriately and served to the parties.

- c. The consent filed on 8th December, 2015 has to be served on all parties and shall be agreed upon by all parties before it is adopted by the Court to vary the Ruling of 7th July, 2015.

DELIVERED AND SIGNED AT NAIROBI THIS 14TH DAY OF JUNE 2016

M. W. MUIGAI

JUDGE

In the presence of Peter Kiambuthi 3rd Applicant