



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 15 OF 2015**

**(FORMERLY MERU SUCC. CAUSE NO. 542 OF 2013 & CHUKA PMC SUCC. CAUSE NO. 168 OF 2012)**

**IN THE MATTER OF ESTATE OF THE LATE GICHUNGE M'ITWERANDU ALIAS  
GICHUNGE M'NTHIIRI- (DECEASED)**

**AND**

**PAUL KATHUNI GICHUNGE.....PETITIONER**

**VERSUS**

**VICTOR POLYCARP NTWIGA.....1ST OBJECTOR**

**JOSEPH GITONGA GICHUNGE.....2ND OBJECTOR**

**PRISCILLA CIANKOROI.....3RD OBJECTOR**

**J U D G M E N T**

1. On 5th December, 2000, Gichunge M'Itwerandu alias Gichunge M'Nthiiri M'Itwerandu, hereinafter "*the deceased*" passed on. According to the letter from the chief of Mwonge Location, the following were his heirs:-

- a) Polycarp Ntwiga Gichunge
- b) Severino Njoka Gichunge
- c) Paul Kathuni Gichunge
- d) John Nduru
- e) Joseph Gitonga
- f) Catherine Ciambuba
- g) Priscilla Ciankoroi
- h) Lena Ciamati Mbaka

He left Magumoni/Itugururu/753 and Magumoni/Mwonge/417 to his name as his estate.

2. On 22nd May, 2012, Paul Kathuni Gichunge petitioned for Letters of Administration Intestate which were issued to him on 16th July, 2012. On 6th June, 2013, the Petitioner applied for confirmation of that grant and proposed to distribute the estate as follows:-

**LR Magumoni/Mwonge/417:-**

- a) Victor Polycarp Ntwiga - 1.87 Acres
- b) Joseph Gitonga Gichunge - 2.32 Acres
- c) Severino Njoka Gichunge Kanga - 1.70 Acres
- d) John Nduru Gichunge - 2.20 Acres

**LR Magumoni/Itugururu/753**

Paul Kathuni Gichunge - Whole

3. This was met with an objection by way of Answer to Petition and Petition by way of Cross-Application for grant by Victor Polycarp Ntwiga, Joseph Gitonga Gichunge and Priscilla Ciankoroi (hereinafter "*the Protestors*") which were filed on 28th June and 5th August, 2013, respectively. In the Answer to the Petition, the Protestors alleged that they were the sole beneficiaries of the deceased's estate and that the Petitioner was greedy in subdividing one property and distributing one whole property to himself. They contended that they sought to honour their father's will to the effect; that LR Magumoni/Mwonge/592 measuring 1.72 acres was transferred to the Petitioner and Magumoni/Mwonge/417 demarcated to the rest of the sons of the deceased in 1982 and that Magumoni/Itugururu/753 measuring 2.4 acres be distributed as follows:-

- a) Victor Polycarp Ntwiga - 0.40 Acres
- b) Joseph Gitonga Gichunge - 0.40 Acres
- c) Priscilla Ciankoroi - 0.47 Acres
- d) Paul Kathuni Gichunge - 0.40 Acres
- e) Severino Njoka Kanga - 0.40 Acres
- f) John Nduru Gichunge - 0.40 Acres

4. On 16th September, 2013, the Senior Principal Magistrate's Court, Chuka ruled that it lacked jurisdiction and the matter was referred to this court sitting in Meru. On 13th November, 2014, the Petitioner once again filed yet another application for confirmation dated 7th November, 2014 proposing to distribute the estate the same way he had proposed in the earlier application. To this, the Protestors filed an Affidavit of protest sworn on 1st April, 2015. In the said protest, the Protestors repeated their earlier contentions as to the proposed distribution. Thereafter, the parties filed various Affidavits and witness statements which they relied on and adopted at the hearing of the protest. Directions were made to the effect that the Protest be determined through viva voce evidence.

5. The first to testify was the 1st Protestor Victor Polycarp Ntwiga (PW<sub>1</sub>). He told the court that the husband of the 3rd Protestor died over 20 years ago and for that reason the Petitioner had sought to disinherit her; that LR. Magumoni/Itugururu/753 (hereinafter "plot 753") was purchased by the deceased; that the deceased's will was that the Petitioner own LR Magumoni/Mwonge/592 (hereinafter "plot 592") which he had transferred to the Petitioner and LR Magumoni/Mwonge/417 demarcated to the other four sons of the deceased during his lifetime and that what remained was the picking of the boundaries to ascertain the sizes. That plot 753 should be divided between six (6) beneficiaries as the Protestors had

proposed in their Protest. He contended that plot No. 592 belonged to the deceased but was registered in the name of the Petitioner and that is where they were born and brought up. That at the family meetings held on 22nd June, 2009 and 8th July, 2009, respectively, the widow of the deceased had stated that the 3rd Protestor remained as one of the deceased's sons.

6. Cross-examined by Mr. Arithi, learned counsel for the Petitioner, PW<sub>1</sub> told the court that the 3rd Protestor was married to the late Henry Nthiga but that she had quarreled with her sons which made her leave her matrimonial home to come and live with him (1st Protestor) since 2003. She had informed him that she was farming at Kaanwa in a farm belonging to her late husband. That before the deceased died in 2000, he had neither provided for nor said anything about the 3rd Protestor. According to him, the deceased had bought plot 592 from one Nkondi. He was not aware that that property originally belonged to Bundi Kauro from whom the Petitioner purchased the same. He agreed that the property belonged to the Petitioner and that the protestors had no quarrel with it. As regards plot 417, he wanted the portions demarcated to the various beneficiaries by the deceased be ascertained. On plot No. 753, PW<sub>1</sub> contended that there was no evidence that the Petitioner purchased it with his father. That if there was any such evidence, he will have no problem the Petitioner taking his 1/2 share thereon and taking the rest as his share of inheritance. He admitted that the Petitioner has been cultivating the said property since 1994.

7. P<sub>1</sub>W<sub>2</sub> was M'Itheru Mwandika. He testified that the deceased purchased plot 753 from him about 40 years ago. He denied having been involved in any transaction with the Petitioner in relation to that property. At no time was he ever known as Mwandika Njoka or ever known anyone by the name Gilbert Njoka Mwandika Itheru. He could not remember; how much he sold the property for; whether it was Kshs.1600/-; or whether the agreement was in writing or whether the document in court was one they wrote. According to him, the transaction was between himself and the deceased before the adjudication officer at Itugururu. He denied knowing Lawrence Nkanja (RW<sub>3</sub>).

8. P<sub>2</sub> W<sub>1</sub> Joseph Gitonga Gichunge, testified that the Petitioner had misled the court by proposing unascertained distribution of the estate. That the court should adopt the distribution proposed by the Protestors. In cross-examination, he stated that the deceased had demarcated plot No. 417 to four (4) of his sons and that the 3rd Protestor currently was living in a portion where their mother used to live. He proposed that his sister Ciankoroi the 3rd Protestor, be given a 1/4 in plot 417. P<sub>3</sub> W<sub>1</sub> Priscilla, the 3rd Protestor testified that the Petitioner's proposed distribution was meant to deprive her her constitutional right to inheritance. In cross-examination, she denied knowledge of Magumoni/Mwonge/2519, although it was registered in her own name. That after she quarreled with her children, she returned to the home of her father and mother in 2003. She was currently occupying the portion previously occupied by her late mother and she had no problem if it was given to her. P<sub>3</sub> W<sub>2</sub>, Fredrick M. Mugo, testified that in June, 2009, the mother of the 3rd Protestor had sent him to call one Imenti Kibungi and Patrick Mbuba (RW<sub>2</sub>) to come for a meeting to discuss about the 3rd Protestor but they declined the invitation. That the 3rd Protestor had not been divorced in accordance with Kichuka customs since one cannot be chased away from his/her home by own children.

9. R W<sub>1</sub> was the Petitioner Paul Kathuni Gichunge. He told the court that he is a son of the deceased. The deceased had demarcated plot 417 during his lifetime and he had not provided for the 3rd Protestor as at the time happily married. That plot 592 belonged to him but because he had shifted his late mother to plot 417, the 1st and 2nd Protestors wanted 0.50 acre from Plot 753. That he had bought plot 753 together with the deceased from one Gilbert Njoka Mwandika in 1976 and he was therefore entitled to a 1/2 share thereof as of right. In cross-examination by the 1st Protestor, he admitted that his name did not appear in the agreement for the purchase of plot 753. That at the time of such purchase, he was working as a copy typist and accountant at Magumoni Girls Secondary School. That at that time, his late father asked him to contribute money to purchase the property after his other brothers were unable to raise any funds. The deceased did not divide this property whilst he had done so with plot 417 in the 1980s. He denied that the deceased did not include him in plot 417 because he had given him plot 592. When cross-examined by the 2nd Protestor he denied that the 2nd Protestor has ever cultivated plot 753. He clarified that although plot No. 592 was registered on 17th February, 1967, his national identify card number was entered in the green card for the property in 2013 when he went to pick his title. That he bought the property in 1967 when he was a farmer. He insisted that the 3rd Protestor was living in Kanwa on her

late husband's property and not on plot 417. That in 1976 when he and his late father were purchasing plot 753, the 1st and 2nd Protestors were 8 and 13 years, respectively.

10. RW<sub>2</sub> Patrick Mbuba Kathumbi is the brother to the late Henry Nthiga the husband of the 3rd Protestor. He told the court that after the demise of Henry Nthiga, the children of the 3rd Protestor were given their portions of land whilst the 3rd Protestor got LR Magumoni/Mwonge/2519, measuring 0.50 acres. His late brother had also purchased 2 acres of land at Kanwa where the 3rd Protestor was currently living. He denied in cross-examination that the 3rd Protestor had been chased away from her matrimonial home. RW<sub>3</sub> Lawrence Nkanja told the court that he was an adopted son of the deceased since 1959 and that he had lived with his family until 1978 when he moved to Timau. He recalled how the deceased and the Petitioner purchased plot 753 in 1976 for Kshs.2000/- from one Gilbert Njoka Mwandika. He denied in cross-examination a suggestion that in 1983 the deceased had intimated of an intention to subdivide plot 753 amongst his five (5) sons. He indicated that he witnessed the agreement for sale of plot 753 which he produced in evidence.

11. RW<sub>4</sub> was Severino Njoka. He testified that in 1976, the deceased approached him to assist in purchasing plot 753 but because he had a sick child in hospital at the time, he was unable to give any money. It is only the Petitioner who was able to assist the deceased the said purchase. As one of the sons of the deceased, he supported the Petitioner's proposed distribution. In cross-examination, he maintained that the Petitioner purchased plot 592 from one Bundi Kauro. The Petitioner was left out from plot 417 because he had already bought his own land. He did not know if plot 753 was owned at 50/50 between the deceased and the Petitioner. He maintained that the 3rd Protestor lives in Kanwa on a property which the witness participated in exercising for her. RW<sub>5</sub> John Nduru, one of the deceased's sons told the court that the deceased had approached him to buy plot 753 but he and RW<sub>4</sub> did not have money. That it is then that Paul Kathuni helped the deceased buy the same. In cross-examination, he stated that plot 592 was purchased using the Petitioner's money. He insisted that the 3rd Protestor lives in Kanwa at her late husband's property but only comes to plot 417 only to greet her brothers. That then was the evidence of the respective parties.

12. Before the trial was concluded, the court directed that the District Land Registrar and Surveyor for Tharaka Nithi do carry out a topographical survey on plot No. 417 to ascertain the demarcation and occupation thereof and file a report to that effect. This was done and a report dated 15th April, 2016 was filed on 20th April, 2016. The parties filed written submissions which I have carefully considered. The parties then did not submit any issues for determination, but after analysing the Affidavits on record, the testimonies of witnesses and the written submissions of the parties, the following are the issues that come up for determination:-

- a) Whether the deceased had bequeathed part of his estate as gift inter vivos.
- b) Whether plot No. 592 is part of the estate of the deceased which should be taken into consideration while distributing his estate.
- c) Whether Plot No.753 was purchased by the deceased in partnership with the Petitioner.
- d) How should the estate be distributed?

13. From the evidence on record, the deceased left behind eight (8) children from three (3) different mothers as follows:-

- a) 1st wife - Mathangu John Nduru Gichunge
- b) 2nd wife - Ndwiga Severino Njoka
- c) 3rd wife - Martha Gichunge

1. Paul Kathuni Gichunge

2. Victor Polycarp Ntwiga
3. Joseph Gitonga Gichunge
4. Priscilla Ciankoroi
5. Catherine Ciambuba
6. Lenah Ciamate.

Catherine Ciambuba and Lenah Ciamate are married and happily living in their matrimonial homes. They never staked any claim to the estate.

14. All the witnesses who testified were agreed that in 1980s, the deceased demarcated Plot No.417 between his four sons, Paul Nduru, Severino Njoka, Joseph Gitonga and Victor Polycarp Ntwiga. Each was shown his portion which he took possession of and continued to occupy and use during the lifetime of the deceased and up to date. While dividing plot 417, the deceased left out the Petitioner and all his daughters who were all then happily married. The witnesses told the court that the Petitioner was left out of Plot 417 because he already had his own plot No.592. All the children of the deceased seem to have been happy with the decision the old man had undertaken, in that, they lived happily with that decision until he died approximately twenty (20) years later in 2000. According to the District Land Registrar's topographical report dated 15th April, 2016, the boundaries demarcating the respective portions were hedges which according to the witnesses were overgrown mature Mitarakwe trees. This confirms that the deceased had given plot 417 as a gift inter vivos to four (4) of his sons without any intention whatever of having the same revert to him. I answer the first issue in the affirmative.

15. As regards plot 592, the Protestors contended that the same was purchased by the deceased in the name of the Petitioner the same way plot No. 417 had been purchased in the name of John Nduru. That whilst the deceased changed the registration of plot 417 to his name, he nevertheless left plot No.592 in the name of the Petitioner. They therefore contended that the same should be taken into consideration when considering the distribution of the estate. The Petitioner on the other hand contended that he had purchased the said property with his own funds and should therefore not be considered when undertaking distribution.

16. Under Section 42 of the Law of Succession Act any property which a beneficiary gets during the lifetime of a deceased by way of a gift inter vivos or by will must be taken into account during the distribution of the estate. That section provides:-

**"42. Where-**

***(a) an intestate has, during his lifetime or by will, paid, given or settled any property to or for the benefit of a child, grandchild or house; or***

***(b) property has been appointed or awarded to any child or grandchild under the provisions of section 26 or section 35. that property shall be taken into account in determining the share of the net intestate estate finally accruing to the child, grandchild or house."*** (Ephasis added).

In this regard, if it is established that plot 592 had been settled to the Petitioner by the deceased during his lifetime the same should be taken into account when considering distribution.

17. There was no dispute that Plot 592 was registered on 17th February, 1967 in the name of Paul Kathuni Gichunge. Exhibit "CN2" the copy of the green card, showed that that was first registration and that the title in respect thereof was issued to the Petitioner on 28th August, 2013. The Petitioner's testimony was that, the said property was purchased by his own money when he was still a farmer before he decided to go back to school to advance his education in 1968. His testimony was corroborated by John Nduru Gichunge (RW5) who told the court that, the money that was used to purchase that property

was given by the Petitioner. When the deceased was demarcating Plot No. 417 to his four (4) sons, he said nothing about this property. Neither did he make any reference to it. The evidence shows that the deceased had registered Plot No.417 in the names of his eldest son, John Nduru, but fearing that the latter may dispose it off to the detriment of the family, he had it retransferred back to his own name in 1964. The question that arises is, if the deceased had feared that his eldest son would dispose off a property registered in his name and change the registration particulars to his own name in 1964, why would he still three (3) years later again register another property in the name of another of his sons? Would the threat of sale of property by one of the sons in 1964 not have deterred him from once again putting any of his properties in the name of the sons? I think his later actions shows that it would have. When he acquired plot 753 in 1976, he caused it to be registered in his own name and not any of his sons. Plot No. 592 might have belonged to the Petitioner for the deceased to have had it registered and leave to remain in the name of Petitioner throughout his entire life.

18. In this regard, I believe the testimonies of the Petitioner and RW<sub>5</sub> that Plot No. 592 was bought by funds belonging to the Petitioner and that at no time did that property belong to the deceased. In my view, the Petitioner has proved on a balance of probability that Plot 592 belonged to him and not the deceased. In this regard, that property should not be taken into account in the distribution of the estate. The second issue is answered in the negative.

19. As regards Plot 753, the Protestors contended that it was solely purchased by the deceased whilst the Petitioner insisted that he contributed in its purchase thereby having a 50% interest thereon. In support of their position, the Protestors called the aid of M'Itheru Mwandika (P<sub>1</sub> W<sub>2</sub>) who told the court that he is the one who sold the property to the deceased some 40 years ago. That at the time of the sale, neither the Petitioner, nor any other person was involved. On his part, the Petitioner testified that in 1976, the deceased approached him with a request to help him purchase the said property because his other brothers did not have any money to help him with. That he contributed half the purchase price. This was corroborated by the testimonies of Lawrence Nkanja (RW<sub>3</sub>), Severino Njoka (RW<sub>4</sub>) and John Nduru (RW<sub>5</sub>). Lawrence Nkanja RW<sub>3</sub> told the court that he had lived with the deceased since 1959. He recalled the Petitioner giving him some money in 1976 to take to the deceased for the purchase of the property. That he witnessed the execution of the agreement which he produced as "**LN 1(a)**". That agreement, corroborated the testimony of the witnesses that the property was bought over a period of time. RW<sub>4</sub> and RW<sub>5</sub> narrated how the deceased approached them with a request for money to help him purchase that property but due to financial constraints, they were not able to raise any money. The deceased later told them that their brother, the Petitioner, had given him money and was to make further contributions towards the purchase thereof. According to them, the property was purchased by the deceased and the Petitioner jointly.

20. This court accepts the testimonies of the Petitioner, RW<sub>3</sub>, RW<sub>4</sub> and RW<sub>5</sub> for the following reasons. Whilst PW<sub>2</sub> testified that he is the one who sold the property to the deceased and that his name was not Gilbert Njoka Mwandika Itheru, he nevertheless agreed that the last two names, Mwandika Itheru, were his names. He also agreed that the property was sold over a period of time. He could not remember if the agreement was in writing or the amount he sold the property. The evidence on record however shows that originally the property agreed to be sold was 2 acres at Kshs.800/- each. However, on 28th May, 1976, a sum of Kshs.400/- was added to the original purchase price to increase the acreage sold to 2.5 acres. The evidence on record is clear that plot 753 that was finally registered in the deceased's name was 2.47 acres thereby agreeing with the said agreement produced by Lawrence Nkanja as "**LN 1(a) and (b)**".

21. As regards the testimony of PW<sub>2</sub> that he sold the property to the deceased alone and not in partnership with the Petitioner, the witness cannot be expected to have known or tell where the deceased was getting the money he was paying him for the land. The arrangement between the deceased and the Petitioner would not be within his knowledge. RW<sub>3</sub> was firm that he recalled the Petitioner giving him money to take to the deceased for the purchase of that property. At that time, the Petitioner was employed in Magumoni Girls Secondary School and was receiving a salary. It should be recalled that although the deceased demarcated plot No. 417 in 1980s, he kept quiet about plot 753 which was already registered in his name in 1980.

22. RW<sub>3</sub>, RW<sub>4</sub> and RW<sub>5</sub> appeared to me to be credible. RW<sub>3</sub> had no interest in the estate or the outcome of these proceedings. He said that his only concern was that the children of the deceased do live together in peace. RW<sub>4</sub> and RW<sub>5</sub> are step brothers to the Petitioner. They stood to gain nothing from lying to the court. Indeed their testimonies meant that they will lose the chance of getting 0.40 acres each that was being proposed by the Protestors. To my mind, taking all the circumstances into consideration, I am satisfied that the Petitioner has proved on a balance of pre ponderance that he contributed to the purchase of Plot 753 and that he retained an interest thereon, though not defined, he estimated that interest to be 50% of the property.

23. Even if the Petitioner had not proved that he contributed to the purchase of Plot 753, still that property would not be available for distribution to the extent suggested by the Protestors. The other sons of the deceased had been gifted portions ranging from 1.729 acres to 2.17 acres. Since Plot 753 measures only 2.47 acres it would have been difficult to satisfy the subdivision proposed by the Protestors as the Petitioner had received nothing from plot 417. In this regard, issue No. 3 is answered in the negative.

24. In view of the foregoing, how should the estate be distributed? In answering this issue, what is to be considered is the position of Priscilla Ciankoroi. She is a lawful daughter of the deceased. There are many authorities to the effect that in matters succession, there is no male nor female, and neither son nor daughter, (married or unmarried). A child is a child and is entitled to inherit the property of his/her late parent like any other. Indeed Article 27 of the Constitution of Kenya abhors discrimination based on anything including sex.

25. The evidence on record shows that the deceased settled some of his children during his lifetime. He gave four (4) sons the whole of Plot 417 to the exclusion of the Petitioner and all his daughters. In my view, he excluded the Petitioner from plot 417 not necessarily because of plot No. 592 but more so because of Plot No. 753 which they had bought together, or which the Petitioner had assisted him purchase. Plot No.753 was already in his name when the deceased divided Plot 417 between his sons. The Petitioner started cultivating Plot 753 exclusively in 1994 todate. The deceased never mentioned about it. Neither did he mention about his daughters who were at the time happily married. None of the daughters complained to the deceased how he had settled his property when he bequeathed it as gift inter vivos. From the foregoing, since the Petitioner contributed half of the purchase price for Plot 753, the deceased only owned half of Plot 753, that is 1.235 acres. Considering that the least bequeathment the deceased gave to his sons in Plot 417 was 1.729 acres, he must have intended that his share of 1.235 acres in 753 be inherited by the son who was cultivating the same and who he had excluded from Plot 417, that is the Petitioner.

26. A person can deal with his property as he wills during his lifetime. Whoever feels aggrieved on how his/her parent has dealt with his property should at the earliest question such person during his/her lifetime. He/she cannot wait until such person dies to raise issues of discrimination or unfairness. Such issues can only validly be raised in cases of a will since wills are kept secret until the testator passes on. However, bequests that are given as gifts inter vivos, are openly so given and in my view whoever is dissatisfied therewith is at liberty to question the same before the demise of the giftor.

27. In the present case, none of the daughters of the deceased, the 3rd Protestor included, questioned the deceased why they had been left out. The beneficiaries have been in occupation of their respect portions since the 1980's, that is for over thirty (30) years now. The 3rd Protestor is claiming from the estate, not because of any reason, but because of change of her personal circumstances. That things have now gone awry at her matrimonial home and she would like to come and upset the social set up, set by the deceased and that has been existing peaceably and harmoniously for 30 years now. I do not think that will do. If every time the personal circumstances of a person changes, the courts and people in society are to be called upon to re-align the social set up, then the position of settlements made during the lifetime of deceased persons will be very unpredictable. The position of bequests given as inter vivos will be fluid, unpredictable and inconclusive.

28. I saw the witnesses testify. The 3rd Protestor struck me as an untruthful person. In the original Petition by way of Cross-Petition, she together with her Co-Protestors lied that they were the only

beneficiaries of the estate of the deceased. She told the court that she had been divorced and chased away from her matrimonial home. That her title had been taken away by the Chief. She never said when, which Chief and for what reason the said Chief took away her title. She denied ever owning any land yet a certificate of search for title No. Magumoni/Mwonge/2519 showing that she was the owner thereof was produced and she never denied or challenged it. I also accepted the testimonies of PW<sub>2</sub>, her brother in law and RW<sub>4</sub> who testified that the 3rd Protestor has two (2) acres in Kanwa where she lives and is currently farming. RW<sub>4</sub> participated in the excision of the said two (2) acres in her favour. She never rebutted or challenged this piece of evidence.

29. What came out at the trial is that the Protestors have deep rooted hatred for their brother, the Petitioner. The Protest was meant to deny the Petitioner his rightful inheritance in Plot 753 notwithstanding that he had substantially contributed to its acquisition. Since the 3rd Protestor is not homeless, (she has a home in Kanwa where she stays), she has not been disadvantaged by the deceased's settlement. She never challenged that settlement when she had the opportunity to, during his lifetime.

30. Since however, the Protestors insisted that the 3rd Protestor lives in Plot 417, contrary to overwhelming evidence on record, the estate of the deceased will be distributed as follows:

**(a) Magumoni/Mwonge/417**

1. John Nduru Gichunge - 0.88 Ha
2. Severino Njoka Gichunge - 0.70 Ha
3. Victor Polycarp Ntwiga - 0.82 Ha
4. Joseph Gitonga Gichunge - 0.88 Ha
5. Priscilla Ciankoroi - 0.04 Ha

**(b) Magumoni/Itugururu/753**

Paul Kathuni Gichunge - whole

31. The portion distributed to the 3rd Protestor is the one which the Objectors told the court the 3rd Protestor occupies and as marked out by the District Surveyor in his report dated 15th April, 2016.

It is so decreed.

**DATED at Chuka this 22nd day of September, 2016.**

**A. MABEYA**

**JUDGE**

**Judgment read and delivered in open court in the presence of all the parties.**

**A.MABEYA**

**JUDGE**

22/9/2016