



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**

**SUCCESSION CAUSE NO.1184 OF 2010**

**IN THE MATTER OF THE ESTATE OF:**

**NJOROGE S/O GITHAIGA alias MATHEW NJOROGE GITHAIGA - DECEASED**

**AND**

**ANDREW MWANGI NJOROGE ..... APPLICANT**

**VERSUS**

**PATRICK RUORO NJOROGE**

**EPHANTUS NDIRANGU NJOROGE**

**GERALD GICHOHI NJOROGE..... RESPONDENTS**

**RULING**

There are two applications pending before court:

- a. *Application for revocation of grant dated 1st February 2013 and filed on the same date by ANDREW MWANGI NJOROGE under certificate of urgency through the law firm of C.M. KINGORI & CO. ADVCOATES.*
- b. *Application dated 20th May 2013 by the said ANDREW MWANGI NJOROGE through the law firm of NGANGA MUNENE & CO. ADVOCATE in which they sought that the Respondents PATRICK RUORO NJOROGE, EPHANTUS NDIRANGU NJOROGE and GERALD GICHOHI NJOROGE be committed to civil jail for a period not exceeding six (6) months for being in contempt of court order issued on 25th February 2013.*

On 17th September 2013 the Respondents filed a replying affidavit to the application dated 20th May 2013 and when parties appeared before me on 6th May 2014 I directed that parties to try and work on the subdivision of two additional acres which is the subject matter of these applications based on the formula used by the deceased in subdividing 12½ acres of the land which have now been filed.

On behalf of the respondents through a letter dated 26th June 2014 they made the following observation:-

- i. The initial 12½ acres were shared as follows-
  - a. ANDREW MWANGI NJOROGE ..... 3 Acres – 24%
  - b. EPHANTUS NDIRANGU NJOROGE ..... 2½Acres – 20%
  - c. PATRICK RUORO NJOROGE ..... 2½ Acres – 20%

- d. GERALD GICHOHI NJOROGE ..... 2½ Acres – 20%
- e. PHILIS MUTHONI .....2 Acres – 16%

Based upon the said formula the respondents proposed to subdivide the additional 2 acres thus:-

- a. ANDREW MWANGI NJOROGE ..... 0.48Acres (24%)
- b. EPHANTUS NDIRANGU NJOROGE ..... 0.40 Acres (20%)
- c. PATRICK RUORO NJOROGE ..... 0.40 Acres (20%)
- d. GERALD GICHOHI NJOROGE ..... 0.40 Acres (20%)
- e. PHILIS MUTHONI ..... 0.32 Acres(16%)

The respondents therefore proposed total Acreage for each beneficiaries as follows:-

- a. ANDREW ..... 3+0.48=3.48
- b. EPHANTUS ..... 2.5+0.40=2.90
- c. PATRICK ..... 2.5+0.40=2.90
- d. GERALD ..... 2.5+0.40=2.90
- e. PHILIS ..... 2.0+0.32=2.32

On behalf of the applicant the following proposal was made:-

- a. ANDREW ..... 3.5+0.64=4.14Acres
- b. EPHANTUS ..... 2.25+0.42=2.67 Acres
- c. PATRICK ..... 2.25+0.42=2.67 Acres
- d. GERALD ..... 2.25+0.42=2.67 Acres
- e. PHILIS ..... 2.00+0=2.00 Acres

It should be pointed out that the parties are settled on the ground as per the subdivision by the deceased and there is therefore no justification of denying Philis Muthoni a share on the 2 Acres.

I would therefore allow the subdivision as proposed by the respondents and hereby order that the additional two (2) Acres be and is hereby subdivided as follows:-

- a. ANDREW MWANGI ..... 0.48 Acres
- b. EPHANTUS NDIRANGU ..... 0.40 Acres
- c. PATRICK RUORO ..... 0.40 Acres
- d. GERALD GICHOHI ..... 0.40 Acres
- e. PHILIS MUTHONI ..... 0.32 Acres

This being a family dispute each party shall meet their own cost. I wish to point out that this ruling was supposed to be delivered on 17th October 2014 but the court was transferred thereby causing the delay therein which is regretted.

**Signed and dated this day of 2015**

**J. WAKIAGA**

**JUDGE.**

Delivered by Justice J. Ngaah on behalf of Justice J. Wakiaga on 19th day of March 2015.

**J. NGAAH**

**JUDGE.**

In the presence of:

----- for Applicant

----- for Respondents

Dated this            day of            2015