



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**SUCCESSION CAUSE NO. 3305 OF 2004**  
**IN THE MATTER OF THE ESTATE OF KARIUKI KAGWE (DECEASED)**

**R U L I N G**

1. The deceased to whose Estate these proceedings relate is Kariuki Kagwe of Mwerua, who died domiciled in the Republic of Kenya on 14<sup>th</sup> August 1994. Letters of Administration to all his intestate Estate being land parcel No. Mweruwa/Kanyokora/207, were granted to his widow Purity Micere Kariuki, (hereinafter Purity) and Leah Gachui Gitoro (hereinafter Leah), the widow of his brother Charles Gitoro Kagwe on 18<sup>th</sup> September 2013. This is because it later emerged that the suit parcel of land measuring 5 acres, although registered in the name of the deceased, was partly held in trust and the deceased and his family lived on the suit parcel of land, together with his brother Charles Gitoro Kagwe and his family.

2. The letters of administration had been issued and confirmed to Purity who had petitioned the Kerugoya court alone, without disclosing the existence of the family of Charles Gitoro Kagwe. Upon becoming aware of the proceedings, Leah successfully applied to the High Court by way of summons under Section 76 of the law of succession Act, seeking to revoke the grant. Hon. Kimaru J heard the matter and entered judgment in her favour on 18<sup>th</sup> September 2013, revoking the grant together with the certificate of confirmation. In the judgment the court gave 1½ acres of the suit land to the house of Leah and 3½ acres to the house of Purity.

3. Subsequently the two widows filed separate summonses for confirmation of grant with proposals on the mode of distribution of the Estate. Leah's application is dated 11<sup>th</sup> March 2014 while Purity's application is dated 5<sup>th</sup> April 2014. In the two applications each Administratrix confined herself to the distribution of the portion of the Estate that devolves to the beneficiaries within her household. During the hearing of the applications on 29<sup>th</sup> April 2015 and by the consent of the parties, the two summonses were consolidated for purposes of confirmation of grant.

4. The house of Leah has four beneficiaries who have filed a consent to distribute their share as follows:

- i. Leah Gachui Gitoro
- ii. Tabitha Wangithi Gitoro    ½ acre to be held jointly
- iii. Peter Muriithi Gitoro -    ½ acre absolutely
- iv. Nahashon Miano Gitoro -  ½ acre absolutely

The house of Purity has thirteen beneficiaries therein who have also filed a consent to distribute their portion of the Estate as follows:

- i. Purity Micere Kariuki
- ii. Irene Wangithi Wachira
- iii. Charity Wanjiru Wangome 1 acre for the widow to hold on
- iv. Gladys Wanjiku Gichamu behalf of all the seven married
- v. Mary Njoki Kariuki daughters.
- vi. Janet Wakiini Kariuki
- vii. Serah Waruguru Kariuki
- viii. Beth Wanjira Kariuki
- ix. Peterson Mwangi Kairuki
- x. Francis Maina Kairuki
- xi. Charles Muthii Kariuki ½ an acre each
- xii. John Mundia Kariuki
- xiii. Ruth Wemwirua Kariuki (deceased) - her ½ acre share to be held in trust by Purity on behalf of her surviving minor children, P M and M W respectively.

Each of the Applicants has annexed a sketch plan of the suit parcel of land indicating their respective portions of each family. The two maps are almost similar although none has indicated the acreage of each portion.

5. In the circumstances the court confirms the grant issued on 18<sup>th</sup> September 2013 to the two widows jointly. Their respective portions of the suit parcel of land shall be distributed in accordance with their respective proposals.

6. Leah shall retain her homestead to be held jointly with her daughter Tabitha Wangithii Gitoro to the extent that it measures half an acre. Her two sons, Peter Muriithi Gitoro and Nahashon Miano Gitoro shall each inherit half an acre absolutely in the portion where Leah plants her food crop and coffee as indicated in their respective plans.

Purity and her seven married daughters being:

- i. Irene Wangithi Wachira,
- ii. Charity Wanjiru Wangome,
- iii. Gladys Wanjiku Gichamu
- iv. Mary Njoki Kariuki,
- v. Janet Wakiini Kariuki
- vi. Serah Waruguru Kariuki

vii. Beth Wanjira Kariuki

shall inherit 1 acre from their portion of three and half acres of land. The four sons of Purity being:

i. Peterson Mwangi Kairuki

ii. Francis Maina Kairuki

iii. Charles Muthii Kariuki

iv. John Mundia Kariuki

shall inherit half an acre each.

The remaining half acre shall be held in trust by Purity on behalf of the surviving minor children, of Ruth Wemwirua Kariuki being P M and M W respectively.

7. The family is at liberty to enlist the services of a surveyor to ascertain the sizes of the respective shares if they so deem fit.

It is so ordered.

**SIGNED DATED and DELIVERED** in open court this **20<sup>th</sup> day of May 2015.**

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**L. A. ACHODE**

**JUDGE**