

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

SUCCESSION CASE NO. 529 OF 2003

IN THE MATTER OF THE ESTATE OF

WANG'OMBE THUKU..... DECEASED

AND

WASHINGTON WAIGANJO WANG'OMBE.....PETITIONER

RULING

1. By a notice of motion dated 23rd January 2012 the applicant CHRISTINE GATHONI KARANJA moved this court for an order that :
 1. ***The Deputy Registrar of this honourable court be and is hereby empowered and authorised to execute all relevant documents from the Land Control Board, Survey documents partition and transfer of land No. LR OTHAYA/KIHUGIRU/211 in the names of the beneficiaries***
1. The application was supported by the affidavit of the applicant in which she deponed that some of the beneficiaries namely WASHINGTON WAIGANJO WANG'OMBE and GEOFFREY THUKU WANG'OMBE had refused to sign and execute documents for transmission.
2. The respondents were duly served and on 7th December 2012 appeared before court for interpartes hearing when this court ordered that the respondent submit any evidence of the proposed subdivisions.
3. On 14th December 2012 the matter proceeded for oral hearing when P.W.1 PHILIP WACHIRA WAMBUGU testified that in 1997 the deceased called him and told him to write down his wishes and stated that JANE WANJIRU to be given one (1) acre from the West followed by JANET NJERI one (1) acre on the Eastern side WASHINGTON WANG'OMBE was to get one acre and whatever remained was for his wife. He further confirmed that he attended to the D.C.'s office. This was confirmed by P.W.2. JOSEPH WAMBUGU P.W.3 DAVID THEURI PW4 DAVID KOSKEI who was then D.C. at Othaya.
4. The Respondents in their response stated that it was the wishes of their late father that they get the share of land rather than the applicants and that they were not willing to go against the said wishes.
5. It is therefore clear that the respondent have refused and or declined to sign the documents against their fathers express intention and as confirmed in through the confirmed grant issued on 25th November 2011.
6. I therefore find merit in the application herein and hereby authorise the Deputy Registrar of this court to execute the necessary documents for transmission of LR No.OTHAYA/KIHUGIRU/211 to the beneficiaries herein into five (5) equal portions.
7. This being a family dispute each party shall meet their own cost.

Dated and delivered at Nyeri this 4th day of April 2014.

J. WAKIAGA

JUDGE

Court: Ruling delivered in open court in the presence of the parties.

J. WAKIAGA

JUDGE