

No.319/2014

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

SUCCESSION CAUSE NO. 746 OF 2012

IN THE MATTER OF THE ESTATE OF MWANGANGI KIMATU MUUMBWA (DECEASED)

SIMON MUTHIANI MWANGANGI.....1ST PETITIONER/RESPONDENT

JAMES MWANGANGI.....2ND PETITIONER/RESPONDENT

AND

ROBERT NDETO MWANGANGI.....1ST INTERESTED PARTY /APPLICANT

JUSTUS MUTUA KITINGO.....2ND INTERESTED PARTY /APPLICANT

STANLEY MUIA MAKAU.....3RD INTERESTED PARTY /APPLICANT

RULING

1. The application dated **24th February, 2014** is brought pursuant to the provisions of **Section 47** of the **Law of Succession Act**, and **Rule 49** of the **Probate and Administration Rules** and **Section 98** of the **Civil Procedure Act**. It seeks orders that the Administrators/Respondents, herein be compelled to effect transfer of the applicant's properties pursuant to the confirmation of the grant; and in default the Deputy Registrar do sign transfer document or any other relevant documents pertaining to properties known as **Kalama/Muumandu/479** and **Machakos Konza North B, Block 1/73**.
2. The application is supported by an affidavit deponed by the 3rd applicant having been authorized by the 1st and 2nd applicants who state that having purchased properties from the deceased at the time of confirmation of the grant the properties were distributed to them . However, the respondents have continued to frustrate them by not transferring the land to them.
3. The respondents did not oppose the application. They appeared in court during hearing whereby they reiterated their position of not having any objection to the application.
4. The Grant of Letters of Administration intestate issued in the matter was confirmed on the **6th June 2013**. A certificate thereof was issued on the **4th July, 2013**.
5. Interests of the applicants were identified. All beneficiaries consented to the proposed mode of distribution of the estate of the deceased. This being the case there should be no reluctance on the part of the administrators in effecting transfer of properties as sought. The application is therefore allowed as prayed.
6. Costs of the application shall be borne by the Respondents.
7. **DATED, SIGNED and DELIVERED** at **MACHAKOS** this **16TH** day of **JUNE 2014**.

L.N. MUTENDE

JUDGE