

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

SUCCESSION CAUSE NO. 184 OF 2012

IN THE MATTER OF THE ESTATE OF S C R (DECEASED)

IN THE MATTER OF APPLICATION OF M C R TO SELL

LR NO. NGONG/NGONG/[particulars withheld]

RULING

1. On 25th June 2008 the deceased S C R died intestate. He left the petitioner/applicant with four sons and two daughters. A grant of letters of administration was issued to the applicant on 4th June 2012. The same was confirmed on 20th November 2013. The terms of the grant were that the applicant be registered in regard of NGONG/NGONG/ *[particulars withheld]* for her own behalf and in trust for her daughters C C and G C.

2. The applicant has applied to be allowed to sell the parcel of land to be able to pay fees for G C, who is in form three at *[particulars withheld]* Girls Secondary School, and son C F, who is a 2nd year at University of Kabianga. Annexed to the application in support of the application was a sale agreement dated 30th May 2011 showing that the applicant was selling the property for kshs.1,000,000/= to one I M W. She had received kshs.700,000/= and Kshs.300,000/= was to be paid on the completion date. The completion date was to be 30 days from the confirmation of the grant. It would appear that the money (balance) has already been paid. The application is being made to regularise the transaction.

3. G C is a minor and the court has the responsibility to protect her registered interest in the property. F C had no stake in the estate.

4. The responsibility to educate the children left by the deceased fell on the applicant. I consider that she has adult children. I decline the request to sell the estate property NGONG/NGONG/ *[particulars withheld]*. When the children in regard to whom the applicant is holding the land in trust are both of age, they can make the decision to dispose of their portions. In the wider interest of justice, I direct that land parcel NGONG/NGONG/ *[particulars withheld]* be registered in the joint names of the applicant and the Deputy Registrar to hold in trust as was indicated in the confirmed grant.

DATED and DELIVERED at NAIROBI this 22nd July 2014.

A.O. MUCHELULE

JUDGE