



**REPUBLIC OF KENYA**

**High Court at Nairobi (Nairobi Law Courts)**

**Environmental & Land Case 29 of 2011**

**IN THE MATTER OF THE ESTATE OF MARY WANJIRU THIONGO alias MARY WANJIRU  
(DECEASED)**

**RICHARD NJOROGE NYANJUI .....PLAINTIFF**

**-VERSUS-**

**SERAH NJERI WANJIRU.....DEFENDANT**

**JUDGMENT**

The Plaintiff filed this suit by way of a plaint dated 28<sup>th</sup> January 2011 and filed in court on 31<sup>st</sup> January 2011. The plaint seeks an order of eviction of the Defendant from L.R. No. Limuru/Rironi/T.348 and the costs of the suit.

The Defendant was served with the summons to enter appearance as per return of service filed in court on 21<sup>st</sup> March 2011 but did not enter an appearance. The Plaintiff applied for judgment and the Deputy Registrar entered interlocutory judgment against the Defendant on 31<sup>st</sup> March 2011.

The suit was listed for formal proof before me on 13<sup>th</sup> March 2013 when the plaintiff testified. The plaintiff's evidence is that he is the registered proprietor of L.R. No. Limuru/Rironi/T348 and that he was so registered pursuant to a certificate of confirmation of grant in regard to the estate of Mary Wanjiru Thiongo (deceased). The plaintiff was pursuant Succession Cause No. HC 634 of 2006 appointed executor of the will of the said Mary Wanjiru Thiongo (deceased) and by virtue of the certificate of confirmation of grant in the said succession cause was entitled to give effect to the wishes of the deceased as per her last testament.

It is the plaintiff's evidence that the deceased wished the suit property to be sold and the proceeds distributed to the heirs including the defendant as per certificate of confirmation of grant.

The plaintiff states that the deceased wishes and has found and identified potential purchasers for the suit property but has been unable to complete the sale, transaction as the Defendant continues to occupy the suit property and has refused to vacate the premises to facilitate the sale in accordance with the deceased wishes even though the defendant is only entitled to 10% of the sale proceeds as per the confirmed grant.

The plaintiff states that he would like to accomplish his mandate as the administrator of the deceased estate and urges the court to issue an order for the eviction of the interest at court rates.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17<sup>TH</sup> DAY OF APRIL 2013.**

**J. M. MUTUNGI**

**JUDGE**

In the presence of:

..... for the Plaintiff  
..... for the Defendant